Volume 3

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1994

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Primary Election, June 7, 1994
and General Election, November 8, 1994

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

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require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of all claims for labor and material, the bonds to contain the terms and conditions set forth in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, and to be subject to the provisions of that title. The board shall also have the right to reject any bid, in which case the board may advertise for new bids.

(b) In the event no proposals are received pursuant to advertisement, where the estimated cost of the work does not exceed two thousand dollars ($2,000), the board of directors, by unanimous vote of all members present, may without advertising for bids, have the work done by force account. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

(c) The district may purchase in the open market without advertisement for bids, materials and supplies for use in any work either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (b), may not be purchased if the cost exceeds two thousand five hundred dollars ($2,500), without advertising for bids and awarding the contract to the lowest responsible bidder.

(d) The provisions of this section have no application to a contract entered into with the United States under the authority of Section 3 of Chapter 2127 of the Statutes of 1959, or to a contract authorized by a vote of the electorate of the district.

SEC. 62. Section 21441 of the Public Contract Code is amended to read:

21441. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000) shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit, or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the authority, inviting sealed proposals for the construction or performance of the improvement work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code. The board may reject any bid. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five

thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050). The authority may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account.

SEC. 63. Section 21451 of the Public Contract Code is amended to read:

21451. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed twelve thousand five hundred dollars ($12,500), shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The payment bonds shall comply with Chapter 7 (commencing with Section 3247) of Division 3 of Title 15 of the Civil Code. The board may reject any bid. If all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed twelve thousand five hundred dollars ($12,500), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050). The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account.

SEC. 64. Section 21461 of the Public Contract Code is amended to read:

21461. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit, or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and

published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon payment of their claims for labor and material. The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work, the board of supervisors may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050). The district may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account.

SEC. 65. Section 21472 is added to the Public Contract Code, to read:

21472. In case of an emergency, if notice for bids to let contracts will not be given, the agency shall respond to the emergency pursuant to Chapter 2.5 (commencing with Section 22050).

SEC. 66. Section 21482 is added to the Public Contract Code, to read:

21482. In case of an emergency, if notice for bids to let contracts will not be given, the agency shall comply with Chapter 2.5 (commencing with Section 22050).

SEC. 67. Section 21491 of the Public Contract Code is amended to read:

21491. (a) All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed ten thousand dollars ($10,000), shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit, or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims

for labor and material. The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code. The board may reject any bid.

(b) In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed ten thousand dollars ($10,000), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

(c) The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (b), may not be purchased if the cost exceeds ten thousand dollars ($10,000), without advertising for bids and awarding the contract to the lowest responsible bidder.

SEC. 68. Section 21492 is added to the Public Contract Code, to read:

21492. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

SEC. 69. Section 21501 of the Public Contract Code is amended to read:

21501. (a) All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed fifteen thousand dollars ($15,000), shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit, or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code. The board may reject any and all bids.

(b) The board may have work done by force account without advertising for bids or by informal bidding procedures in any of the following situations:

(1) All proposals are rejected.

(2) No proposals are received.

(3) The estimated cost of the work does not exceed fifteen thousand dollars ($15,000) until January 1, 1989. After January 1, 1989, the estimated cost of the work shall not exceed ten thousand dollars ($10,000).

(4) The work consists of channel protection.

(5) The work consists of maintenance work, except that informal bidding procedures may be used only where the estimated cost does not exceed twenty-five thousand dollars ($25,000).

(6) The work consists of emergency work. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

(c) The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account, except that, materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (b), may not be purchased, if the cost exceeds fifteen thousand dollars ($15,000), without advertising for bids and awarding the contract to the lowest responsible bidder.

(d) As used in this section, "informal bidding procedures" means that the board shall, at a minimum, award a contract to the lowest responsible bidder after publishing a notice which generally describes the work to be performed and invites written bids in a newspaper of general circulation in the agency once a week for two successive weeks. The board shall obtain a minimum of three written bids.

SEC. 70. Section 21511 of the Public Contract Code is amended to read:

21511. (a) All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed ten thousand dollars ($10,000), shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code. The board may reject any and all bids.

(b) In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed ten thousand dollars ($10,000), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

(c) The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (b), may not be purchased, if the cost exceeds ten thousand dollars ($10,000), without advertising for bids and awarding the contract to the lowest responsible bidder.

SEC. 71. Section 21521 of the Public Contract Code is amended to read:

21521. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000) shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit, or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code. The board may reject any bid. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050). In that event a majority vote of all board members shall be required. The board may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account.

SEC. 72. Section 21531 of the Public Contract Code is amended to read:

21531. (a) The Castaic Lake Water Agency shall have power to prescribe methods for the construction of works and for the letting of contracts for the construction of works, structures, or equipment, or the performance or furnishing of labor, materials, or supplies, necessary or convenient for carrying out any of the purposes of this act or for the acquisition or disposal of any real or personal property; provided, that all contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation published in the agency or by two insertions in a nondaily newspaper of general circulation published in the agency or, if no newspaper is published in the agency, in any newspaper of general circulation distributed in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code. The board may reject any bid.

(b) In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given. The board shall comply with Chapter 2.5 (commencing with Section 22050).

(c) The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (b), may not be purchased if the cost exceeds five thousand dollars ($5,000), without advertising for bids and awarding the contract to the lowest responsible bidder.

SEC. 73. Section 21541 of the Public Contract Code is amended to read:

21541. (a) The Crestline-Lake Arrowhead Water Agency shall have power to prescribe methods for the construction of works and for the letting of contracts for the construction of works, structures, or equipment, or the performance or furnishing of labor, materials,

or supplies, necessary or convenient for carrying out any of the purposes of this act or for the acquisition or disposal of any real or personal property; provided, that all contracts for the construction of any improvement or unit of work, when the cost, according to the estimate of the engineer, will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code. The board may reject any bid.

(b) In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

(c) The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (b), may not be purchased if the cost exceeds five thousand dollars ($5,000), without advertising for bids and awarding the contract to the lowest responsible bidder.

SEC. 74. Section 21552 is added to the Public Contract Code, to read:

21552. In case of an emergency, if notice for bids to let contracts will not be given, the district shall comply with Chapter 2.5 (commencing with Section 22050).

SEC. 75. Section 21567 of the Public Contract Code is repealed.

SEC. 76. Section 21567 is added to the Public Contract Code, to read:

21567. (a) Notwithstanding the requirements of Section 21566, contracts, in writing or otherwise, may be let without advertising for, or inviting bids, when any repairs, alterations, or other work, or the purchase of materials, supplies, equipment, or other property is

deemed by the board to be for an emergency.

(b) In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

SEC. 77. Section 21572 of the Public Contract Code is amended to read:

21572. Any improvement or unit of work, except as provided in this article, estimated to cost in excess of five thousand dollars ($5,000), shall be done by contract and let to the lowest responsible bidder in the manner provided in this article. The board of directors of the agency shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the agency, inviting sealed proposals for the construction of the work before any contract shall be made, and may let by contract separately any part of the work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board, conditioned upon the faithful performance of the contract, and upon the payment of the claims for labor and material, the bonds to contain the terms and conditions set forth in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, and to be subject to the provisions of that title. The board shall also have the right to reject any and all bids, and readvertise for new bids, or by a two-thirds vote may elect to undertake the work by force account. In the event no proposals are received pursuant to advertisement, or where the estimated cost of such work does not exceed five thousand dollars ($5,000), the board of directors by unanimous vote of all members present may without advertising for bids have the work done by force account. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050). The agency may purchase in the open market without advertisement for bids, materials and supplies for use in any work either under contract or by force account.

SEC. 78. Section 21581 of the Public Contract Code is amended to read:

21581. (a) Any improvement or unit of work when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000), shall be done by contract and shall be let to the lowest responsible bidder or bidders in the manner provided in this article. The board shall first determine whether the contract shall be let as a single unit or shall be divided into severable parts, or both, according to the best interests of the district. The board shall call for bids and advertise the call by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed in the district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made. The call for bids shall state whether the work is to be performed as a unit or shall be divided into severable specific parts, or both, as stated in the call. The board may let the

work by single contract for the whole or it may divide the work into severable parts by separate contracts, as stated in the call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board a good and sufficient bond to be approved by the board conditioned upon the payment of their claims for labor and material, the bond to contain the terms and conditions set forth in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code and to be subject to the provisions of that title. The board shall also have the right to reject any and all bids and readvertise for new bids, or by a two-thirds vote may elect to undertake the work by force account.

(b) In the event no proposals are received pursuant to advertisement, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work, the board of supervisors may, without advertising for bids, have the work done by employees of the district, by day labor, under the direction of the board, by contract, or by any combination of those methods. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

(c) The district may acquire in the open market without advertising for bids, materials, equipment, and supplies for use in any work or for any other purpose; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (b), may not be purchased if the cost exceeds five thousand dollars ($5,000), without advertising for bids and awarding the contract to the lowest responsible bidder.

SEC. 79. Section 21591 of the Public Contract Code is amended to read:

21591. (a) Any improvement or unit of work, when the cost, according to the estimate of the engineer, will exceed twenty-five thousand dollars ($25,000), shall be done by contract and shall be let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, if there is a newspaper printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil

Code. The board may reject any and all bids and readvertise, or by a two-thirds vote may elect to undertake work by force account.

(b) If no proposals are received, or the estimated cost of the work does not exceed twenty-five thousand dollars ($25,000), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

(c) The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in subdivision (b), may not be purchased if the cost exceeds twenty-five thousand dollars ($25,000), without advertising for bids and awarding the contract to the lowest responsible bidder.

SEC. 80. Section 21601 of the Public Contract Code is amended to read:

21601. Any improvement or unit of work, when the cost, according to the estimate of the engineer, will exceed five thousand dollars ($5,000), shall be done by contract and let to the lowest responsible bidder or bidders as provided in this article. The board shall first determine whether the contract shall be let as a single unit, or divided into severable parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in the call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon payment of their claims for labor and material. The bonds shall comply with Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code. The board may reject any and all bids and readvertise, or, by a two-thirds vote, may elect to undertake the work by force account. In the event no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work, the board of supervisors may have the work done by force account without advertising for bids. In case an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050). The district may purchase in the open market without advertising for bids, materials, and supplies for use in any work, either under contract or by force account.

SEC. 81. Section 21618 is added to the Public Contract Code, to read:

21618. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

SEC. 82. Section 21621 of the Public Contract Code is amended to read:

21621. Any improvement or unit of work, when the cost, according to the estimate of the engineer, will exceed five thousand dollars ($5,000), shall be done by contract and shall be let to the lowest responsible bidder or bidders in the manner provided in this article. The board shall first determine whether the contract shall be let as a single unit or shall be divided into severable parts, according to the best interests of the district. The board shall call for bids and advertise the call by publication pursuant to Section 6061.3 of the Government Code in a newspaper of general circulation published or circulated in the district, inviting sealed proposals for the construction or performance of the improvement or work before any contract is made. The call for bids shall state whether the work is to be performed as a unit or is to be divided into parts, as stated in the call. The board may let the work by single contract or it may divide the work into parts by separate contracts, as stated in the call.

SEC. 83. Section 21624 is added to the Public Contract Code, to read:

21624. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

SEC. 84. Section 21631 of the Public Contract Code is amended to read:

21631. (a) Any improvement or unit of work when the cost, according to the estimate of the engineer, will exceed six thousand five hundred dollars ($6,500), shall be done by contract and shall be let to the lowest responsible bidder or bidders in the manner provided in this article. The board shall first determine whether the contract shall be let as a single unit, or shall be divided into severable parts, or both, according to the best interests of the district. The board shall call for bids and advertise the call by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed in the district inviting sealed proposals for the construction or performance of the improvement or work before any contract is made. The call for bids shall state whether the work is to be performed as a unit or shall be divided into severable parts, or both, as stated in the call. The board may let the work by single contract or it may divide the work into severable parts by separate contracts, as stated in the call, according to the best interests of the district. The board shall require the successful bidder or bidders to file with the board a good and sufficient bond, to be approved by the board, conditioned upon the payment of their claims for labor and material. The bond shall

contain the terms and conditions set forth in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code and be subject to the provisions of that title. The board may reject any and all bids and readvertise for new bids, or by a two-thirds vote may elect to undertake the work by force account.

(b) If no proposals are received pursuant to advertisement or the estimated cost of the work does not exceed six thousand five hundred dollars ($6,500), or the work consists of channel protection, maintenance work, or emergency work, the board of supervisors may, without advertising for bids, have the work done by employees of the district, by day labor, under the direction of the board, by contract, or by a combination of those methods. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050).

(c) The district may acquire in the open market, without advertising for bids, materials, equipment, and supplies for use in any work or for any other purpose; provided, however, that materials and supplies for use in any new construction work or improvement, except that work referred to in subdivision (b), may not be purchased if the cost exceeds six thousand five hundred dollars ($6,500), without advertising for bids and awarding the contract to the lowest responsible bidder.

SEC. 85. Section 21641 of the Public Contract Code is amended to read:

21641. (a) All contracts for the construction of any unit of work, except as provided, estimated to cost in excess of twenty-five thousand dollars ($25,000) shall be let to the lowest responsible bidder in the manner provided in this article.

(b) The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district inviting sealed proposals for the construction of the work before any contract shall be made, and may let by contract separately any part of the work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material. The board may reject any bid.

(c) If all proposals are rejected or no proposals are received pursuant to advertisement, or where the estimated cost of the work does not exceed twenty-five thousand dollars ($25,000), or where the work consists of channel protection, maintenance work, or emergency work, the board, by unanimous vote of all members present, may, without advertising for bids, have the work done by force account. In case of an emergency, if notice for bids to let contracts will not be given, the board shall comply with Chapter 2.5 (commencing with Section 22050). The district may purchase in the open market, without advertising for bids, materials and supplies for

use in any work either under contract or by force account.

(d) The provisions of this section have no application to a contract entered into with the United States or to a contract authorized by a vote of the eligible voters of the district or a zone.

SEC. 86. Section 22035 of the Public Contract Code is repealed.

SEC. 87. Section 22035 is added to the Public Contract Code, to read:

22035. (a) In cases of emergency when repair or replacements are necessary, the governing body may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the governing body, by contractor, or by a combination of the two.

(b) In case of an emergency, if notice for bids to let contracts will not be given, the public agency shall comply with Chapter 2.5 (commencing with Section 22050).

SEC. 88. Chapter 2.5 (commencing with Section 22050) is added to Part 3 of Division 2 of the Public Contract Code, to read:

CHAPTER 2.5. EMERGENCY CONTRACTING PROCEDURES

22050. (a) (1) In the case of an emergency, a public agency, pursuant to a four-fifths vote of the governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.

(2) Before a governing body takes any action pursuant to paragraph (1), it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.

(b) (1) The governing body, by a four-fifths vote, may delegate, by resolution or ordinance, to the appropriate county administrative officer, city manager, chief engineer, or other nonelected agency officer the authority to order any action pursuant to paragraph (1) of subdivision (a).

(2) If the public agency has no county administrative officer, city manager, chief engineer, or other nonelected agency officer, the governing body, by a four-fifths vote, may delegate to an elected officer the authority to order any action specified in paragraph (1) of subdivision (a).

(3) If a person with authority delegated pursuant to paragraph (1) or (2) of this section orders any action specified in paragraph (1) of subdivision (a), that person shall report to the governing body, at its next meeting required pursuant to this section, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.

(c) (1) If the governing body orders any action specified in subdivision (a), the governing body shall review the emergency action at its next regularly scheduled meeting and, except as specified below, at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action. If the governing body meets weekly, it may review the emergency action in accordance with this paragraph every 14 days.

(2) If a person with authority delegated pursuant to subdivision (b) orders any action specified in paragraph (1) of subdivision (a), the governing body shall initially review the emergency action not later than seven days after the action, or at its next regularly scheduled meeting if that meeting will occur not later than 14 days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by a four-fifths vote, that there is a need to continue the action, unless a person with authority delegated pursuant to subdivision (b) has terminated that action prior to the governing body reviewing the emergency action and making a determination pursuant to this subdivision. If the governing body meets weekly, it may, after the initial review, review the emergency action in accordance with this paragraph every 14 days.

(3) When the governing body reviews the emergency action pursuant to paragraph (1) or (2), it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

(d) As used in this section, "public agency" has the same meaning as defined in Section 22002.

(e) A three-member governing body may take actions pursuant to subdivision (a), (b), or (c) by a two-thirds vote.

(f) This section applies only to emergency action taken pursuant to Sections 20133, 20168, 20193, 20205.1, 20134, 20168, 20205.1, 20213, 20223, 20233, 20253, 20273, 20283, 20293, 20313, 20331, 20567, 20586, 20604, 20635, 20645, 20685, 20736, 20751.1, 20806, 20812, 20914, 20918, 20926, 20931, 20941, 20961, 20991, 21020.2, 21024, 21031, 21043, 21061, 21072, 21081, 21091, 21101, 21111, 21121, 21131, 21141, 21151, 21161, 21171, 21181, 21191, 21196, 21203, 21212, 21221, 21231, 21241, 21251, 21261, 21271, 21290, 21311, 21321, 21331, 21341, 21351, 21361, 21371, 21381, 21391, 21401, 21411, 21421, 21431, 21441, 21451, 21461, 21472, 21482, 21491, 21501, 21511, 21521, 21531, 21541, 21552, 21567, 21572, 21581, 21591, 21601, 21618, 21624, 21631, 21641, and 22035.

CHAPTER 804

An act to add Section 1281.95 to the Code of Civil Procedure, relating to arbitration.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1281.95 is added to the Code of Civil Procedure, to read:

1281.95. (a) In a binding arbitration of any claim for more than three thousand dollars ($3,000) pursuant to a contract for the construction or improvement of residential property consisting of one to four units, the arbitrator shall, within 10 days following his or her appointment, provide to each party a written declaration under penalty of perjury. This declaration shall disclose (1) whether the arbitrator or his or her employer or arbitration service had or has a personal or professional affiliation with either party, and (2) whether the arbitrator or his or her employer or arbitration service has been selected or designated as an arbitrator by either party in another transaction.

(b) If the arbitrator discloses an affiliation with either party, discloses that the arbitrator has been selected or designated as an arbitrator by either party in another arbitration, or fails to comply with this section, he or she may be disqualified from the arbitration by either party.

(c) A notice of disqualification shall be served within 15 days after the arbitrator makes the required disclosures or fails to comply. The right of a party to disqualify an arbitrator shall be waived if the party fails to serve the notice of disqualification pursuant to this subdivision unless the arbitration makes a material omission or material misrepresentation in his or her disclosure. Nothing in this section shall limit the right of a party to vacate an award or to disqualify an arbitrator pursuant to subdivision (e) of Section 1282, Section 1286.2, or any other law or statute.

CHAPTER 805

An act to amend Section 15379.20 of, to amend the heading of Chapter 3.6 (commencing with Section 15379.20) of Part 6.7 of Division 3 of Title 2 of, to amend and renumber Sections 15379.21, 15379.31, 15379.32, and 15379.34 of, to add Sections 15379.23, 15379.24, and 15379.25 to, and to repeal and add Sections 15379.70 and 15379.80 of, the Government Code, relating to postsecondary education.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The heading of Chapter 3.6 (commencing with Section 15379.20) of Part 6.7 of Division 3 of Title 2 of the Government Code is amended to read:

CHAPTER 3.6. CALIFORNIA COMMUNITY COLLEGES ECONOMIC DEVELOPMENT PROGRAM

SEC. 2. Section 15379.20 of the Government Code is amended to read:

15379.20. The following definitions govern the construction of this chapter:

(a) "California Community Colleges Economic Development Program," "economic development program," and "ED > Net Program" mean the program, the mission of which is described in Section 15379.21.

(b) "Small Business Innovation Research Program (SBIR)" means that program enacted pursuant to the Small Business Innovation Development Act of 1982 (Public Law 97-219) that provides funds to small businesses to conduct innovative research having commercial application.

(c) "Small business" means a corporation, partnership, sole proprietorship, or individual operating a business for profit with 500 employees or less, including employees employed in any subsidiary or affiliated corporation which otherwise meets the requirements of the federal SBIR program.

(d) "Phase I award" means federal SBIR awards of between twenty thousand dollars ($20,000) and fifty thousand dollars ($50,000) in support of approximately a six-month research effort that will demonstrate to the federal funding agency all of the following:

(1) That the proposing firm can perform high quality research and development.

(2) That the proposed effort is technically feasible.

(3) That sufficient progress had been made to justify a much larger agency investment in Phase II.

(e) "Phase II award" means federal SBIR awards, ranging between two hundred thousand dollars ($200,000) and five hundred thousand dollars ($500,000), funding the principal research and development effort with a duration normally not exceeding two years.

SEC. 3. Section 15379.21 of the Government Code is amended and renumbered to read:

15379.27. (a) There is hereby created in state government a California Small Business Innovation Research Program for purposes of providing educational, technical, and financial assistance to any California small business enterprise engaging in, or intending to engage in, research and development that is deemed to be innovative and in the long-term interest of the economy of the state.

(b) The California Small Business Innovation and Research Program shall be administered by the Chancellor of the California Community Colleges. Administrative operation and control expenses necessary to carry out this chapter shall be covered by existing resources in the chancellor's office.

SEC. 4. Section 15379.23 is added to the Government Code, to read:

15379.23. Commencing January 1, 1996, notwithstanding Section 7550.5, the Board of Governors of the California Community Colleges shall submit an annual report of the economic development program to the Governor and the Legislature.

The report shall be prepared by the chancellor, and, at a minimum, shall contain all of the following information:

(a) A summary of economic development program activities that enhance the programmatic mission, as described in Section 15379.21.

(b) Progress made in eliminating business access barriers to community colleges work force development, retraining, and economic development programs and services.

(c) The type of services provided to colleges and employers and the resulting outcomes.

(d) Statistical data, by factors including, but not limited to, industry, gender, and ethnicity regarding the level of services provided to program participants served by economic development training and technical assistance programs in each program area. The program areas shall include, but need not be limited to, program participants in the California Small Business Innovation Research Pilot Projects, as authorized by Sections 15379.50 and 15379.61, the California Procurement and Technical Assistance Network, as authorized by Section 15397.1, and the regional Business Resource, Assistance and Innovation network infrastructure plan, as authorized by subdivision (c) of Section 15379.25.

(e) A status report on contract education activities.

(f) Recommendations on the level of services to be provided, by program category, for college and participant services for the succeeding fiscal year.

(g) Budget expenditures for the fiscal years reviewed for program

performance and outcomes.

SEC. 5. Section 15379.24 is added to the Government Code, to read:

15379.24. (a) It is the intent of the Legislature to maximize the resources of the California Community Colleges to fulfill its role as the primary provider in fulfilling the vocational education and training needs of California business and industry, as described in Section 15379.21. Fulfilling that mission will require strengthened leadership, communication, and liaisons with the private sector as well as with public sector education and training providers. The California Community Colleges shall work with businesses and employers to identify, on a region-by-region basis, work force education and training needs, including the needs of small business, and create networks of service providers that meet identified needs in the most cost-effective and timely manner.

(b) The Board of Governors of the California Community Colleges, not later than April 1, 1995, shall modify and strengthen the existing California Community Colleges Economic Development Program Executive Committee to be comprised of not more than 27 members, including the following:

(1) The Chancellor of the California Community Colleges, or his or her designee.

(2) The chair of the Economic Development and Vocational Education Committee of the Board of Governors.

(3) A faculty representative selected by the Academic Senate.

(4) A classified employee representative selected by an employees bargaining unit.

(5) A labor representative nominated by a statewide labor union and designated by the board of governors.

(6) One representative of each of the 10 California Community Colleges Economic Development Program regions, nominated by the community college chief executive officers of that region, and who are representative of both rural and urban areas of the state.

(7) A representative of the California State University designated by the Chancellor of the California State University.

(8) A representative of the University of California designated by the President of the University of California.

(9) The Secretary of the Trade and Commerce Agency, or his or her designee.

(10) The Director of the Employment Development Department, or his or her designee.

(11) The Superintendent of Public Instruction, or his or her designee.

(12) Representatives of the California Community Colleges Economic Development Program Private Sector and Employer Advisory Council, equal to the number of state representatives, comprised of business, industry, and employers, including small, minority-owned and women-owned businesses, nominated by statewide business, industry, and employer or trade associations.

Private sector and employer members shall be selected by the chancellor and approved by the board of governors.

(c) Members of the committee shall be subject to the conflict-of-interest provisions in Chapter 7 (commencing with Section 87100) of Title 9.

(d) Members of the committee shall be representative of the geographic and ethnic diversity of the state.

(e) Members shall serve without compensation.

(f) The committee shall meet as necessary, but not less than two times annually, and shall report biannually to the Economic Development and Vocational Education Committee of the Board of the Governors of the California Community Colleges.

(g) The chair of the executive committee shall be appointed by majority vote of the committee.

SEC. 6. Section 15379.25 is added to the Government Code, to read:

15379.25. The California Community Colleges Economic Development Program Executive Committee shall serve the California Community Colleges in the following capacity:

(a) Perform policy and advisory functions to the board of governors regarding the California Community Colleges Economic Development Program.

(b) Guide overall program development and implementation and recommend resource development and deployment strategies.

(c) Develop and implement, through community colleges, a regional Business Resource, Assistance, and Innovation network infrastructure plan for each region to support the mission of the economic development program, as described in Section 15379.21, including an assessment of human resource needs in critical high growth industrial sectors. The plan shall integrate all economic development programs and services in the region. The objectives of the plan shall be to provide a full range of services to the region, to coordinate service delivery with other service providers, and to identify gaps in services needed by the region. The plan shall provide a resource inventory of service providers for clients in the region.

(d) Recommend vocational education priorities and explore new avenues for expanding the vocational and technical training role of the California Community Colleges, including strategies to provide access by culturally and ethnically disadvantaged individuals to program resources.

(e) Establish an effective liaison with business and industry to further define the mission of the California Community Colleges Economic Development Program.

(f) Establish connections with other institutions of higher education including the California State University and the University of California to coordinate resources for economic development activities, vocational education, training, and cooperative and compatible network development.

(g) Recommend incentives to strengthen economic development

programs within local community college districts, including identification of policy, procedural, and political barriers to that development.

(h) Review published reports and documents relating to the role of community colleges in economic development, as described in Section 15379.21. Upon review of these reports and documents, develop and recommend to the Chancellor of the California Community Colleges and the Board of Governors of the California Community Colleges the actions necessary to implement the role of the California Community Colleges in California's economic development.

(i) Review and update the strategic plan of the California Community Colleges Economic Development Program as deemed necessary to maintain the community college support of California's work force and economic competitiveness pursuant to Section 15379.21.

(j) Develop for implementation a resource development plan to expand the services of the economic development program to business and employers pursuant to Section 15379.21 and Article 3 (commencing with Section 15379.40).

SEC. 7. Section 15379.31 of the Government Code is amended and renumbered to read:

15379.22. (a) After conferring with the California Community Colleges Economic Development Program Executive Committee, as established by Section 15379.24, the Chancellor of the California Community Colleges shall submit to the board of governors, for its approval, a comprehensive annual plan and budget, including specified funding sources, for the California Community Colleges Economic Development Program. The chancellor may contract with local community colleges to provide staff support for the program. The annual plan shall include, but shall not be limited to, all of the following:

(1) Programmatic priorities and anticipated outcomes for the California Community Colleges Economic Development Program, including target industries and identified occupational education and training needs.

(2) Anticipated administrative staffing needs by community college district and within the Chancellor's Office of the California Community Colleges.

(3) An itemized accounting of proposed budget requests to support the proposed annual program plan, including an accounting of income and proposed expenditures for the California Community Colleges Business Resource Assistance and Innovation Network Trust Fund, as specified in Section 15379.40.

(b) The board of governors shall review regulations and guidelines governing the hiring and employment of staff support for ED > Net Program Initiatives and, as appropriate, adopt policy revisions consistent with state criteria for hiring and employment.

SEC. 8. Section 15379.32 of the Government Code is amended

and renumbered to read:

15379.21. (a) The mission of the economic development program, subject to approval and amendment by the Board of Governors of the California Community Colleges, shall include, but not be limited to, all of the following:

(1) To advance California's economic growth and global competitiveness through quality education and services focusing on continuous work force improvement, technology deployment, and business development.

(2) To coordinate a community college response to meet statewide work force needs that attracts, retains, and expands businesses.

(3) To develop innovative solutions, as needed, in identified strategic priority areas, including, but not limited to, advanced transportation technologies, biotechnologies, small business applications, applied competitive technologies, including computer integrated manufacturing, production, and continuous quality improvement, environmental technologies, health care delivery, international trade, and work place literacy.

(4) To identify, acquire, and leverage resources to support local, regional, and statewide economic development.

(5) To create logistical, technical, and marketing infrastructure support for economic development activities within the California Community Colleges.

(6) To optimize access to community colleges' economic development services.

(7) To develop strategic public and private sector partnerships.

(b) The board of governors and the chancellor may award grants to districts for leadership in accomplishing the mission and goals of the economic development program, as described in subdivision (a).

SEC. 9. Section 15379.34 of the Government Code is amended and renumbered to read:

15379.35. Among other activities, the network shall implement the California Small Business Innovation Research Program and shall collaborate with all public and private institutions of higher education and with the Trade and Commerce Agency, including the California Small Business Development Center Program, and all state and federal agencies interested in referring small businesses to the network for purposes of facilitating state SBIR program services.

SEC. 10. Section 15379.70 of the Government Code is repealed.

SEC. 11. Section 15379.70 is added to the Government Code, to read:

15379.70. (a) Not later than July 1, 1997, the Board of Governors of the California Community Colleges shall initiate a review of the California Community Colleges Economic Development Program for purposes of determining whether the operation of the program should be extended. The review shall assess the effectiveness of the California Community Colleges Economic Development Program in advancing the programmatic mission as described in Section

15379.21.

(b) Following completion of the review required by subdivision (a), the independent contractor shall report findings to the board of governors and the California Community Colleges Economic Development Program Executive Committee.

(c) Not later than September 1, 1997, the board of governors shall transmit the review, along with its recommendations, as appropriate, to the Governor, appropriate legislative committees, and the Legislative Analyst.

SEC. 12. Section 15379.80 of the Government Code is repealed.

SEC. 13. Section 15379.80 is added to the Government Code, to read:

15379.80. (a) This chapter shall become inoperative on June 30, 1998, and as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes operative and is repealed.

(b) The Legislative Analyst shall conduct a review of the effectiveness of this chapter for submission to the Governor, the Legislature, and the Board of Governors of the California Community Colleges as part of the Legislative Analyst's analysis of the Budget Bill to be issued in February 1998. In evaluating the program, the Legislative Analyst shall consider all of the following:

(1) The findings of the report required by Section 15379.70.

(2) An assessment of whether any identified problems are issues that affect the implementation of this chapter or issues that warrant revisions of statutes or regulations. The assessment shall include recommendations to improve the California Community Colleges Economic Development Program while maintaining its basic purposes, including the program mission as established by Section 15379.21.

CHAPTER 806

An act to amend Section 1060 of the Code of Civil Procedure, and to amend Sections 285, 1000, 1220, 1460, 1834, 2252, 2333, 2340, 2341, 2342, 2343, 2616, 2683, 3110, 7050, 7240, 7604, 8200, 8404, 8488, 8545, 8901, 9861, 10832, 11854, 13540, 15401, 16247, and 17203 of, to amend the heading of Article 4 (commencing with Section 2340) of Chapter 4 of Part 4 of Division 4 of, to add Sections 81.5, 1218, 2529, 9869, and 11754 to, to add Part 16 (commencing with Section 800) to Division 2 of, to repeal Section 8874 of, to repeal Chapter 5 (commencing with Section 6140) of Part 1 of Division 6 of, and to repeal and add Part 1 (commencing with Section 21101) of Division 11 of, the Probate Code, relating to estates and trusts.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1060 of the Code of Civil Procedure is amended to read:

1060. Any person interested under a written instrument, excluding a will or a trust, or under a contract, or who desires a declaration of his or her rights or duties with respect to another, or in respect to, in, over or upon property, or with respect to the location of the natural channel of a watercourse, may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an original action or cross-complaint in the superior court or in the municipal or justice court to the extent allowed pursuant to Article 1 (commencing with Section 86) of Chapter 5 of Title 1 of Part 1 for a declaration of his or her rights and duties in the premises, including a determination of any question of construction or validity arising under the instrument or contract. He or she may ask for a declaration of rights or duties, either alone or with other relief; and the court may make a binding declaration of these rights or duties, whether or not further relief is or could be claimed at the time. The declaration may be either affirmative or negative in form and effect, and the declaration shall have the force of a final judgment. The declaration may be had before there has been any breach of the obligation in respect to which said declaration is sought.

SEC. 2. Section 81.5 is added to the Probate Code, to read:

81.5. "Transferee" means the beneficiary, donee, or other recipient of an interest transferred by an instrument.

SEC. 3. Section 285 of the Probate Code is amended to read:

285. (a) A disclaimer may not be made after the beneficiary has accepted the interest sought to be disclaimed.

(b) For the purpose of this section, a beneficiary has accepted an interest if any of the following occurs before a disclaimer is filed with respect to that interest:

(1) The beneficiary, or someone acting on behalf of the beneficiary, makes a voluntary assignment, conveyance, encumbrance, pledge, or transfer of the interest or part thereof, or contracts to do so; provided, however, that a beneficiary will not have accepted an interest if the beneficiary makes a gratuitous conveyance or transfer of the beneficiary's entire interest in property to the person or persons who would have received the property had the beneficiary made an otherwise qualified disclaimer pursuant to this part.

(2) The beneficiary, or someone acting on behalf of the beneficiary, executes a written waiver under Section 284 of the right to disclaim the interest.

(3) The beneficiary, or someone acting on behalf of the

beneficiary, accepts the interest or part thereof or benefit thereunder.

(4) The interest or part thereof is sold at a judicial sale.

(c) An acceptance does not preclude a beneficiary from thereafter disclaiming all or part of an interest if both of the following requirements are met:

(1) The beneficiary became entitled to the interest because another person disclaimed an interest.

(2) The beneficiary or other person acting on behalf of the beneficiary at the time of the acceptance had no knowledge of the interest to which the beneficiary so became entitled.

(d) The acceptance by a joint tenant of the joint tenancy interest created when the joint tenancy is created is not an acceptance by the joint tenant of the interest created when the joint tenant survives the death of another joint tenant.

SEC. 4. Part 16 (commencing with Section 800) is added to Division 2 of the Probate Code, to read:

PART 16. JURISDICTION

800. The court in proceedings under this code is a court of general jurisdiction and the court, or a judge of the court, has the same power and authority with respect to the proceedings as otherwise provided by law for a superior court, or a judge of the superior court, including, but not limited to, the matters authorized by Section 128 of the Code of Civil Procedure.

SEC. 5. Section 1000 of the Probate Code is amended to read:

1000. Except to the extent that this code provides applicable rules, the rules of practice applicable to civil actions, including discovery proceedings, apply to, and constitute the rules of practice in, proceedings under this code.

SEC. 6. Section 1218 is added to the Probate Code, to read:

1218. If a notice or other paper is required or permitted to be mailed, delivered, served, or otherwise given to a person who is represented by an attorney of record, the notice or other paper shall also be mailed to this attorney, unless otherwise specified in a request for special notice.

SEC. 7. Section 1220 of the Probate Code is amended to read:

1220. (a) When notice of hearing is required to be given as provided in this section:

(1) At least 15 days before the time set for the hearing, the petitioner or the person filing the report, account, or other paper shall cause notice of the time and place of the hearing to be mailed to the persons required to be given notice.

(2) Unless the statute requiring notice specifies the persons to be given notice, notice shall be mailed to all of the following:

(A) The personal representative.

(B) All persons who have requested special notice in the estate proceeding pursuant to Section 1250.

(3) Subject to Section 1212, the notice shall be addressed to the person required to be given notice at the person's place of business or place of residence.

(b) Subject to subdivision (c), nothing in this section excuses compliance with the requirements for notice to a person who has requested special notice pursuant to Chapter 6 (commencing with Section 1250).

(c) The court for good cause may dispense with the notice otherwise required to be given to a person as provided in this section.

SEC. 8. Section 1460 of the Probate Code is amended to read:

1460. (a) Subject to Sections 1202 and 1203, if notice of hearing is required under this division but the applicable provision does not fix the manner of giving notice of hearing, the notice of the time and place of the hearing shall be given at least 15 days before the day of the hearing as provided in this section.

(b) Subject to subdivision (e), the petitioner (which includes for the purposes of this section a person filing a petition, report, or account) shall cause the notice of hearing to be mailed to each of the following persons:

(1) The guardian or conservator.

(2) The ward if 12 years of age or older or the conservatee.

(3) The spouse of the ward or conservatee, if the ward or conservatee has a spouse.

(4) Any interested person who has appeared in the particular matter to which the hearing relates.

(5) For any hearing on a petition to terminate a guardianship, to accept the resignation of, or to remove the guardian, the persons described in subdivision (c) of Section 1510.

(6) For any hearing on a petition to terminate a conservatorship, to accept the resignation of, or to remove the conservator, the persons described in subdivision (b) of Section 1821.

(c) The clerk of the court shall cause the notice of the hearing to be posted as provided in Section 1230 if the posting is required by subdivision (c) of Section 2543 (sales).

(d) Except as provided in subdivision (e), nothing in this section excuses compliance with the requirements for notice to a person who has requested special notice pursuant to Chapter 10 (commencing with Section 2700) of Part 4.

(e) The court for good cause may dispense with the notice otherwise required to be given to a person as provided in this section.

SEC. 8.5. Section 1460 of the Probate Code is amended to read:

1460. (a) Subject to Sections 1202 and 1203, if notice of hearing is required under this division but the applicable provision does not fix the manner of giving notice of hearing, the notice of the time and place of the hearing shall be given at least 15 days before the day of the hearing as provided in this section.

(b) Subject to subdivision (e), the petitioner (which includes for the purposes of this section a person filing a petition, report, or account) shall cause the notice of hearing to be mailed to each of the

following persons:

(1) The guardian or conservator.

(2) The ward if 12 years of age or older or the conservatee.

(3) The spouse of the ward or conservatee, if the ward or conservatee has a spouse, or the domestic partner of the conservatee, if the conservatee has a domestic partner.

(4) Any interested person who has appeared in the particular matter to which the hearing relates.

(5) For any hearing on a petition to terminate a guardianship, to accept the resignation of, or to remove the guardian, the persons described in subdivision (c) of Section 1510.

(6) For any hearing on a petition to terminate a conservatorship, to accept the resignation of, or to remove the conservator, the persons described in subdivision (b) of Section 1821.

(c) The clerk of the court shall cause the notice of the hearing to be posted as provided in Section 1230 if the posting is required by subdivision (c) of Section 2543 (sales).

(d) Except as provided in subdivision (e), nothing in this section excuses compliance with the requirements for notice to a person who has requested special notice pursuant to Chapter 10 (commencing with Section 2700) of Part 4.

(e) The court for good cause may dispense with the notice otherwise required to be given to a person as provided in this section.

SEC. 9. Section 1834 of the Probate Code is amended to read:

1834. (a) Before letters are issued, the conservator (other than a trust company or a public conservator) shall file an acknowledgment of receipt of (1) a statement of duties and liabilities of the office of conservator, and (2) a copy of the conservatorship information required under Section 1835. The acknowledgment and the statement shall be in the form prescribed by the Judicial Council.

(b) The court may by local rules require the acknowledgment of receipt to include the conservator's birth date and driver's license number, if any, provided that the court ensures their confidentiality.

(c) The statement of duties and liabilities prescribed by the Judicial Council shall not supersede the law on which the statement is based.

SEC. 10. Section 2252 of the Probate Code is amended to read:

2252. (a) Except as otherwise provided in subdivisions (b) and (c), a temporary guardian or temporary conservator has only those powers and duties of a guardian or conservator that are necessary to provide for the temporary care, maintenance, and support of the ward or conservatee and that are necessary to conserve and protect the property of the ward or conservatee from loss or injury.

(b) Unless the court otherwise orders:

(1) A temporary guardian of the person has the powers and duties specified in Section 2353 (medical treatment).

(2) A temporary conservator of the person has the powers and duties specified in Section 2354 (medical treatment).

(3) A temporary guardian of the estate or temporary conservator

of the estate may marshal assets and establish accounts at financial institutions.

(c) The temporary guardian or temporary conservator has the additional powers and duties as may be ordered by the court (1) in the order of appointment or (2) by subsequent order made with or without notice as the court may require.

(d) The terms of any order made under subdivision (b) or (c) shall be included in the letters of temporary guardianship or conservatorship.

(e) A temporary conservator is not permitted to sell or relinquish, on the conservatee's behalf, any lease or estate in real or personal property used as or within the conservatee's place of residence without the specific approval of the court. This approval may be granted only if the conservatee has been served with notice of the hearing, the notice to be personally delivered to the temporary conservatee unless the court for good cause otherwise orders, and only if the court finds that the conservatee will be unable to return to the residence and exercise dominion over it and that the action is necessary to avert irreparable harm to the conservatee. The temporary conservator is not permitted to sell or relinquish on the conservatee's behalf any estate or interest in other real or personal property without specific approval of the court, which may be granted only upon a finding that the action is necessary to avert irreparable harm to the conservatee. A finding of irreparable harm as to real property may be based upon a reasonable showing that the real property is vacant, that it cannot reasonably be rented, and that it is impossible or impractical to obtain fire or liability insurance on the property.

SEC. 11. Section 2333 of the Probate Code is amended to read:

2333. (a) In case of a breach of a condition of the bond, an action may be brought against the sureties on the bond for the use and benefit of the ward or conservatee or of any person interested in the estate.

(b) No action may be maintained against the sureties on the bond unless commenced within four years from the discharge or removal of the guardian or conservator or within four years from the date the order surcharging the guardian or conservator becomes final, whichever is later.

(c) In any case, and notwithstanding subdivision (b) of Section 2103, no action may be maintained against the sureties on the bond unless the action commences within six years from the date the judgment under Section 2103 or the later of the orders under subdivision (b) of this section becomes final.

SEC. 12. The heading of Article 4 (commencing with Section 2340) of Chapter 4 of Part 4 of Division 4 of the Probate Code is amended to read:

Article 4. Registration of Private Professional Conservators and Private Professional Guardians

SEC. 13. Section 2340 of the Probate Code is amended to read:

2340. No superior court may appoint a private professional conservator or private professional guardian, or permit any person to continue to serve as a private professional conservator or private professional guardian, pursuant to Chapter 5 (commencing with Section 2350) or Chapter 6 (commencing with Section 2400) unless the conservator or guardian has filed the information required by Sections 2342 and 2343 with the county clerk in each county where a petition for appointment has been filed.

SEC. 14. Section 2341 of the Probate Code is amended to read:

2341. (a) As used in this article, "private professional conservator" means a person or entity appointed as conservator of the person or estate, or both, of two or more conservatees at the same time who are not related to the conservator by blood or marriage, except a bank or other entity authorized to conduct the business of a trust company, or any public officer or public agency including the public guardian, public conservator, or other agency of the State of California. In the case of an entity, all natural persons who are authorized by the entity to perform the functions of a conservator shall comply with this article. The court may, at its discretion, require any person who is the conservator for only one conservatee not related to the conservator by blood or marriage to comply with this article, and in that case, references in this article to a "private professional conservator" includes those persons.

(b) As used in this article, "private professional guardian" means a person or entity appointed as guardian of the person or estate, or both, of two or more wards at the same time who are not related to the guardian by blood or marriage, except a bank or other entity authorized to conduct the business of a trust company, or any public officer or public agency including the public guardian, public conservator, or other agency of the State of California. In the case of an entity, all natural persons who are authorized by the entity to perform the functions of a guardian shall comply with this article. The court may, at its discretion, require any person who is the guardian for only one ward not related to the guardian by blood or marriage to comply with this article, and in that case, references in this article to a "private professional guardian" includes those persons.

SEC. 15. Section 2342 of the Probate Code is amended to read:

2342. (a) All private professional conservators or private professional guardians shall file annually with the county clerk a statement, under penalty of perjury, containing the following information:

(1) His or her educational background and professional experience.

(2) At least three professional references.

(3) The names of the conservator's or guardian's current conservatees.

(4) The aggregate dollar value of all assets currently under the conservator's or guardian's supervision.

(5) The conservator's or guardian's addresses and telephone numbers for his or her place of business and place of residence.

(6) Whether the conservator or guardian has ever been removed for cause as conservator or guardian or has resigned as conservator or guardian in a specific case, the circumstances causing that removal or resignation, and the case names, court locations, and case numbers.

(7) The case names, court locations, and case numbers of all conservatorship or guardianship cases which are closed for which the private professional conservator or private professional guardian served as the conservator or private professional guardian.

(b) Upon filing of a petition for appointment, a private professional conservator or private professional guardian shall state that he or she is a private professional conservator or private professional guardian, and that the information required by this section is on file with the county clerk.

(c) The county clerk shall order a background fingerprint check from the Department of Justice and may request a background fingerprint check from the Federal Bureau of Investigation on each private professional conservator or private professional guardian. The background check shall include a record of all arrests resulting in conviction and all arrests for which final disposition is pending. The Department of Justice shall retain these fingerprints in its files and shall provide any subsequent arrest information to the county clerk pursuant to Section 11105.2 of the Penal Code until notified by the county clerk that the person is no longer serving in the capacity of a private professional conservator or private professional guardian. The superior court shall review the background fingerprint check prior to the appointment of a private professional conservator or private professional guardian. The court shall review annual updates to the criminal background check on persons currently serving in the capacity of a private professional conservator or private professional guardian under the court's jurisdiction. The background fingerprint check may be dispensed with by the court if the petitioner was appointed as a private professional conservator or private professional guardian, or served in the capacity of a private professional conservator or private professional guardian, during the previous year and a background fingerprint check was previously made.

(d) The information required by this section shall be made available to the court for any purpose, including the determination of the appropriateness of appointing or continuing the appointment of, or removing, the conservator or guardian, but shall otherwise be kept confidential.

(e) This section applies to all private professional conservators or

private professional guardians regardless of the date of appointment.

SEC. 16. Section 2343 of the Probate Code is amended to read:

2343. The county clerk shall charge each private professional conservator or private professional guardian an annual filing fee which does not exceed the average per-conservator or per-guardian annual cost in complying with this article. This fee shall also include the cost of submitting the fingerprint card to the Department of Justice.

SEC. 17. Section 2529 is added to the Probate Code, to read:

2529. A person in possession of another's personal property or in possession of the deed, stock certificate, passbook, or other document of title of another person's personal or real property, who has actual knowledge that there is a guardian or conservator of the estate of that other person, shall disclose to this guardian or conservator the nature and location of the property and supply a copy of evidence of title. The person shall be liable for all damages suffered by the estate of the conservatee as the result of any failure to make this disclosure.

SEC. 18. Section 2616 of the Probate Code is amended to read:

2616. (a) A petition may be filed under this article by any one or more of the following:

(1) The guardian or conservator.

(2) The ward or conservatee.

(3) A creditor or other interested person, including persons having only an expectancy or prospective interest in the estate.

(b) Upon the filing of a petition under this article, the court may order that a citation be issued to a person to answer interrogatories, or to appear before the court and be examined under oath, or both, concerning any of the following allegations made in the petition:

(1) The person has wrongfully taken, concealed, or disposed of property of the ward or conservatee.

(2) The person has knowledge or possession of any of the following:

(A) A deed, conveyance, bond, contract, or other writing that contains evidence of or tends to disclose the right, title, interest, or claim of the ward or conservatee to property.

(B) An instrument in writing belonging to the ward or conservatee.

(3) The person asserts a claim against the ward or conservatee or the estate.

(4) The estate asserts a claim against the person.

(c) If the citation requires the person to appear before the court, the court and the petitioner may examine the person under oath upon the matters recited in the petition. The citation may include a requirement for this person to produce documents and other personal property specified in the citation.

(d) Disobedience of a citation issued pursuant to this section may be punished as a contempt of the court issuing the citation.

SEC. 19. Section 2683 of the Probate Code is amended to read:

2683. (a) At least 15 days before the hearing on the petition for

appointment of a successor conservator, notice of the time and place of the hearing shall be given as provided in this section. The notice shall be accompanied by a copy of the petition.

(b) Notice shall be mailed to the persons designated in Section 1460 and to the relatives named in the petition.

(c) If notice is required by Section 1461 to be given to the Director of Mental Health or the Director of Developmental Services, notice shall be mailed as so required.

(d) If notice is required by Section 1461.5 to be given to the Veterans Administration, notice shall be mailed as so required.

SEC. 19.5. Section 2683 of the Probate Code is amended to read:

2683. (a) At least 15 days before the hearing on the petition for appointment of a successor conservator, notice of the time and place of the hearing shall be given as provided in this section. The notice shall be accompanied by a copy of the petition.

(b) Notice shall be mailed to the persons designated in Section 1460 and to the relatives named in the petition.

(c) If notice is required by Section 1461 to be given to the Director of Mental Health or the Director of Developmental Services, notice shall be mailed as so required.

(d) If notice is required by Section 1461.5 to be given to the Veterans Administration, notice shall be mailed as so required.

SEC. 20. Section 3110 of the Probate Code is amended to read:

3110. (a) A proceeding under this chapter shall be brought by a petition filed in the superior court.

(b) The proper county for commencement of the proceeding is the county in which a conservatorship proceeding of one of the spouses is pending. If a conservatorship proceeding is not pending, then in either of the following:

(1) The county in which one or both of the spouses resides.

(2) Any other county as may be in the best interests of the spouses.

SEC. 21. Chapter 5 (commencing with Section 6140) of Part 1 of Division 6 of the Probate Code is repealed.

SEC. 22. Section 7050 of the Probate Code is amended to read:

7050. The superior court has jurisdiction of proceedings under this code concerning the administration of the decedent's estate.

SEC. 23. Section 7240 of the Probate Code is amended to read:

7240. An appeal may be taken from the making of, or the refusal to make, any of the following orders:

(a) Granting or revoking letters, but not letters of special administration or letters of special administration with general powers.

(b) Admitting a will to probate or revoking the probate of a will.

(c) Setting aside a small estate under Section 6609.

(d) Setting apart a probate homestead or property claimed to be exempt from enforcement of a money judgment.

(e) Granting, modifying, or terminating a family allowance.

(f) Directing or authorizing the sale or conveyance or confirming the sale of property.

(g) Directing or authorizing the granting of an option to purchase property.

(h) Adjudicating the merits of a claim under Chapter 11 (commencing with Section 9860) of Part 5.

(i) Allocating debts under Chapter 3 (commencing with Section 11440) of Part 9.

(j) Settling an account of a personal representative.

(k) Instructing or directing a personal representative.

(*l*) Directing or allowing the payment of a debt, claim, devise, attorney's fee, or personal representative's compensation.

(m) Determining heirship or the persons to whom distribution should be made.

(n) Distributing property.

(o) Determining that property passes to, or confirming that property belongs to, the surviving spouse under Section 13656.

(p) Authorizing a personal representative to invest or reinvest surplus money under Section 9732.

(q) Determining whether a specific beneficiary action constitutes a contest under Chapter 2 (commencing with Section 21320) of Part 3 of Division 11.

SEC. 24. Section 7604 of the Probate Code is amended to read:

7604. If the public administrator takes possession or control of property of a decedent under this article, but another person is subsequently appointed personal representative or subsequently takes control or possession, the public administrator is entitled to reasonable costs incurred for the preservation of the estate, together with reasonable compensation for services. The costs and compensation are a proper expense of administration.

SEC. 25. Section 8200 of the Probate Code is amended to read:

8200. (a) Unless a petition for probate of the will is earlier filed, the custodian of a will shall, within 30 days after having knowledge of the death of the testator, do both of the following:

(1) Deliver the will to the clerk of the superior court of the county in which the estate of the decedent may be administered. No fee shall be charged for compliance with the requirement of this paragraph.

(2) Mail a copy of the will to the person named in the will as executor, if the person's whereabouts is known to the custodian, or if not, to a person named in the will as a beneficiary, if the person's whereabouts is known to the custodian.

(b) A custodian of a will who fails to comply with the requirements of this section is liable for all damages sustained by any person injured by the failure.

(c) The clerk shall release a copy of a will delivered under this section for attachment to a petition for probate of the will or otherwise on receipt of payment of the required fee and either a court order for production of the will or a certified copy of a death certificate of the decedent.

SEC. 26. Section 8404 of the Probate Code is amended to read:

8404. (a) Before letters are issued, the personal representative (other than a trust company or a public administrator) shall file an acknowledgment of receipt of a statement of duties and liabilities of the office of personal representative. The statement shall be in the form prescribed by the Judicial Council.

(b) The court may by local rule require the acknowledgment of receipt to include the personal representative's birth date and driver's license number, if any, provided that the court ensures their confidentiality.

(c) The statement of duties and liabilities prescribed by the Judicial Council does not supersede the law on which the statement is based.

SEC. 27. Section 8488 of the Probate Code is amended to read:

8488. (a) In case of a breach of a condition of the bond, an action may be brought against the sureties on the bond for the use and benefit of the decedent's estate or of any person interested in the estate.

(b) No action may be maintained against the sureties on the bond of the personal representative unless commenced within four years from the discharge or removal of the personal representative or within four years from the date the order surcharging the personal representative becomes final, whichever is later.

(c) In any case, and notwithstanding subdivision (c) of Section 7250, no action may be maintained against the sureties on the bond unless commenced within six years from the date the judgment under Section 7250 or the later of the orders under subdivision (b) of this section becomes final.

SEC. 28. Section 8545 of the Probate Code is amended to read:

8545. (a) Notwithstanding Section 8544, the court may grant a special administrator the same powers, duties, and obligations as a general personal representative where to do so appears proper. Notwithstanding Section 8541, if letters have not previously been issued to a general personal representative, the grant shall be on the same notice required under Section 8003 for appointment of a personal representative, unless the appointment is made at a hearing on a petition for appointment of a general personal representative and the notice of that petition required under Section 8003 has been given.

(b) Subject to Section 8543, the court may require as a condition of the grant that the special administrator give any additional bond that the court deems proper. From the time of approving and filing any required additional bond, the special administrator shall have the powers, duties, and obligations of a general personal representative.

(c) If a grant is made under this section, the letters shall recite that the special administrator has the powers, duties, and obligations of a general personal representative.

SEC. 29. Section 8874 of the Probate Code is repealed.

SEC. 30. Section 8901 of the Probate Code is amended to read:

8901. The personal representative shall appraise the following property, excluding items whose fair market value is, in the opinion of the personal representative, an amount different from the face value of the property:

(a) Money and other cash items. As used in this subdivision, a "cash item" is a check, draft, money order, or similar instrument issued on or before the date of the decedent's death that can be immediately converted to cash.

(b) The following checks issued after the date of the decedent's death:

(1) Checks for wages earned before death.

(2) Refund checks, including tax and utility refunds, and Medicare, medical insurance, and other health care reimbursements and payments.

(c) Accounts (as defined in Section 21) in financial institutions.

(d) Cash deposits and money market mutual funds, as defined in subdivision (b) of Section 9730, whether in a financial institution or otherwise, including a brokerage cash account. All other mutual funds, stocks, bonds, and other securities shall be appraised pursuant to Sections 8902 to 8909, inclusive.

(e) Proceeds of life and accident insurance policies and retirement plans and annuities payable on death in lump sum amounts.

SEC. 31. Section 9861 of the Probate Code is amended to read:

9861. (a) At least 30 days prior to the day of the hearing, the petitioner shall cause notice of the hearing and a copy of the petition to be served in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure on all of the following persons:

(1) The personal representative.

(2) Each person claiming an interest in, or having title to or possession of, the property.

(b) Except for those persons given notice pursuant to subdivision (a), notice of the hearing, together with a copy of the petition, shall be given as provided in Section 1220 to all of the following persons:

(1) Each person listed in Section 1220.

(2) Each known heir whose interest in the estate would be affected.

(3) Each known devisee whose interest in the estate would be affected.

(c) The court may not shorten the time for giving the notice of hearing under this section.

SEC. 32. Section 9869 is added to the Probate Code, to read:

9869. A person who, in bad faith, has wrongfully taken, concealed, or disposed of property in the estate of the decedent is liable for twice the value of the property, recoverable in an action by the personal representative for the benefit of the estate.

SEC. 33. Section 10832 of the Probate Code is amended to read:

10832. Notwithstanding Sections 10830 and 10831, the court may

allow compensation to the personal representative or to the attorney for the personal representative for extraordinary services before final distribution when any of the following requirements is satisfied:

(a) It appears likely that administration of the estate will continue, whether due to litigation or otherwise, for an unusually long time.

(b) Present payment will benefit the estate or the beneficiaries of the estate.

(c) Other good cause is shown.

SEC. 34. Section 11754 is added to the Probate Code, to read:

11754. Expenses of administration of the estate shall include reasonable storage, delivery, and shipping costs for distribution of tangible personal property to a distributee.

SEC. 35. Section 11854 of the Probate Code is amended to read:

11854. (a) A person may claim money on deposit in the county treasury by filing a petition with the court that made the order for distribution. The petition shall show the person's claim or right to the property. Unless the petition is filed by the person named in the decree for distribution of a decedent's estate, or the legal representative of the person or the person's estate, the petition shall state the facts required to be stated in a petition for escheated property filed under Section 1355 of the Code of Civil Procedure. On the filing of the petition, the same proceedings shall be had as are required by that section, except that the hearing shall be ex parte unless the court orders otherwise.

(b) If so ordered by the court, a copy of the petition shall be served on the Attorney General. The Attorney General may answer the petition, at the Attorney General's discretion.

(c) If the court is satisfied that the claimant has a right to the property claimed, the court shall make an order establishing the right. On presentation of a certified copy of the order, the county auditor shall draw a warrant on the county treasurer for the amount of money covered by the order.

(d) A claim for money distributed in the estate of a deceased person made after the deposit of the property in the State Treasury is governed by the provisions of Chapter 3 (commencing with Section 1335) of Title 10 of Part 3 of the Code of Civil Procedure.

SEC. 36. Section 13540 of the Probate Code is amended to read:

13540. (a) Except as provided in Section 13541, after 40 days from the death of a spouse, the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse has full power to sell, convey, lease, mortgage, or otherwise deal with and dispose of the community or quasi-community real property, and the right, title, and interest of any grantee, purchaser, encumbrancer, or lessee shall be free of rights of the estate of the deceased spouse or of devisees or creditors of the deceased spouse to the same extent as if the property had been owned as the separate property of the surviving spouse.

(b) The surviving spouse or the personal representative, guardian

of the estate, or conservator of the estate of the surviving spouse may record, prior to or together with the instrument that makes a disposition of property under this section, an affidavit of the facts that establish the right of the surviving spouse to make the disposition.

(c) Nothing in this section affects or limits the liability of the surviving spouse under Sections 13550 to 13553, inclusive, and Chapter 3.5 (commencing with Section 13560).

SEC. 37. Section 15401 of the Probate Code is amended to read:

15401. (a) A trust that is revocable by the settlor may be revoked in whole or in part by any of the following methods:

(1) By compliance with any method of revocation provided in the trust instrument.

(2) By a writing (other than a will) signed by the settlor and delivered to the trustee during the lifetime of the settlor. If the trust instrument explicitly makes the method of revocation provided in the trust instrument the exclusive method of revocation, the trust may not be revoked pursuant to this paragraph.

(b) Unless otherwise provided in the instrument, if a trust is created by more than one settlor, each settlor may revoke the trust as to the portion of the trust contributed by that settlor, except as provided in Section 761 of the Family Code.

(c) A trust may not be modified or revoked by an attorney in fact under a power of attorney unless it is expressly permitted by the trust instrument.

(d) Nothing in this section limits the authority to modify or terminate a trust pursuant to Section 15403 or 15404 in an appropriate case.

(e) The manner of revocation of a trust revocable by the settlor that was created by an instrument executed before July 1, 1987, is governed by prior law and not by this section.

SEC. 38. Section 16247 of the Probate Code is amended to read:

16247. The trustee has the power to hire persons, including accountants, attorneys, auditors, investment advisers, appraisers (including probate referees appointed pursuant to Section 400), or other agents, even if they are associated or affiliated with the trustee, to advise or assist the trustee in the performance of administrative duties.

SEC. 39. Section 17203 of the Probate Code is amended to read:

17203. At least 30 days before the time set for the hearing on the petition, the petitioner shall cause notice of the time and place of hearing to be mailed to all of the following persons:

(a) All trustees.

(b) All beneficiaries, subject to Chapter 2 (commencing with Section 15800) of Part 3.

(c) The Attorney General, if the petition relates to a charitable trust subject to the jurisdiction of the Attorney General, unless the Attorney General waives notice.

SEC. 40. Part 1 (commencing with Section 21101) of Division 11 of the Probate Code is repealed.

SEC. 41. Part 1 (commencing with Section 21101) is added to Division 11 of the Probate Code, to read:

PART 1. RULES FOR INTERPRETATION OF INSTRUMENTS

CHAPTER 1. GENERAL PROVISIONS

21101. Unless the provision or context otherwise requires, this part shall apply to a will, trust, deed, and any other instrument.

21102. (a) The intention of the transferor as expressed in the instrument controls the legal effect of the dispositions made in the instrument.

(b) The rules of construction expressed in this part apply where the intention of the transferor is not indicated by the instrument.

21103. The meaning and legal effect of a disposition in an instrument shall be determined by the local law of a particular state selected by the transferor in the instrument unless the application of that law is contrary to the rights of the surviving spouse to community and quasi-community property, to any other public policy of this state applicable to the disposition, or, in the case of a will, Part 3 (commencing with Section 6500) of Division 6.

21104. As used in this part, "testamentary gift" means a transfer in possession or enjoyment that takes effect at or after death.

21105. Except as provided in Sections 641 and 642, a will passes all property the testator owns at death, including property acquired after execution of the will.

21106. A transfer of property to more than one person vests the property in them as owners in common.

21107. If an instrument directs the conversion of real property into money at the transferor's death, the property and its proceeds shall be deemed personal property from the time of the transferor's death.

21108. The law of this state does not include (a) the common-law rule of worthier title that a transferor cannot devise an interest to his or her own heirs or (b) a presumption or rule of interpretation that a transferor does not intend, by a transfer to his or her own heirs or next of kin, to transfer an interest to them. The meaning of a transfer of a legal or equitable interest to a transferor's own heirs or next of kin, however designated, shall be determined by the general rules applicable to the interpretation of instruments. This section applies to all cases in which a final judgment had not been entered as of September 18, 1959.

21109. (a) A transferee who fails to survive the transferor or until any future time required by the instrument does not take under the instrument.

(b) If it cannot be established by clear and convincing evidence that the transferee has survived the transferor, it is deemed that the beneficiary did not survive the transferor.

(c) If it cannot be established by clear and convincing evidence

that the transferee survived until a future time required by the instrument, it is deemed that the transferee did not survive until the required future time.

21110. (a) Subject to subdivision (b), if a transferee is dead when the instrument is executed, or is treated as if the transferee predeceased the transferor, or fails to survive the transferor or until a future time required by the instrument, the issue of the deceased transferee take in the transferee's place in the manner provided in Section 240. A transferee under a class gift shall be a transferee for the purpose of this subdivision unless the transferee's death occurred before the execution of the instrument and that fact was known to the transferor when the instrument was executed.

(b) The issue of a deceased transferee do not take in the transferee's place if the instrument expresses a contrary intention or a substitute disposition. A requirement that the initial transferee survive for a specified period of time after the death of the transferor constitutes a contrary intention. A requirement that the initial transferee survive until a future time that is related to the probate of the transferor's will or administration of the estate of the transferor constitutes a contrary intention.

(c) As used in this section, "transferee" means a person who is kindred of the transferor or kindred of a surviving, deceased, or former spouse of the transferor.

21111. Except as provided in Section 21109:

(a) If a transfer, other than a residuary gift or a transfer of a future interest, fails for any reason, the property transferred becomes a part of the residue transferred under the instrument.

(b) If a residuary gift or a future interest is transferred to two or more persons and the share of a transferee fails for any reason, the share passes to the other transferees in proportion to their other interest in the residuary gift or the future interest.

21112. A condition in a transfer of a present or future interest that refers to a person's death "with" or "without" issue, or to a person's "having" or "leaving" issue or no issue, or a condition based on words of similar import, is construed to refer to that person's being dead at the time the transfer takes effect in enjoyment and to his or her either having or not having, as the case may be, issue who are alive at the time of enjoyment.

21113. (a) A transfer of a present interest to a class includes all persons answering the class description at the transferor's death.

(b) A transfer of a future interest to a class includes all persons answering the class description at the time the transfer is to take effect in enjoyment.

(c) A person conceived before but born after the transferor's death or after the time the transfer takes effect in enjoyment takes if the person answers the class description.

21114. A transfer of a present or future interest to the transferor's or another designated person's "heirs," "next of kin," "relatives," or "family," or to "the persons entitled thereto under the intestate

succession laws," or to persons described by words of similar import, is a transfer to those who would be the transferor's or other designated person's heirs, their identities and respective shares shall be determined as if the transferor or other designated person were to die intestate at the time when the transfer is to take effect in enjoyment and according to the California statutes of intestate succession of property not acquired from a predeceased spouse in effect at that time. If the designated person's surviving spouse is living but is remarried at the time the transfer is to take effect in enjoyment, the surviving spouse is not an heir of the designated person for purposes of this section.

21115. (a) Except as provided in subdivision (b), halfbloods, adopted persons, persons born out of wedlock, stepchildren, foster children, and the issue of these persons when appropriate to the class, are included in terms of class gift or relationship in accordance with the rules for determining relationship and inheritance rights for purposes of intestate succession.

(b) In construing a transfer by a transferor who is not the natural parent, a person born to the natural parent shall not be considered the child of that parent unless the person lived while a minor as a regular member of the household of the natural parent or of that parent's parent, brother, sister, spouse, or surviving spouse. In construing a transfer by a transferor who is not the adoptive parent, a person adopted by the adoptive parent shall not be considered the child of that parent unless the person lived while a minor (either before or after the adoption) as a regular member of the household of the adopting parent or of that parent's parent, brother, sister, or surviving spouse.

(c) Subdivisions (a) and (b) shall also apply in determining:

(1) Persons who would be kindred of the transferor or kindred of a surviving, deceased, or former spouse of the transferor under Section 21110.

(2) Persons to be included as issue of a deceased transferee under Section 21110.

(3) Persons who would be the transferor's or other designated person's heirs under Section 21114.

21116. A testamentary disposition by an instrument, including a transfer to a person on attaining majority, is presumed to vest at the transferor's death.

21117. Testamentary gifts are classified as follows:

(a) A specific gift is a transfer of specifically identifiable property.

(b) A general gift is a transfer from the general assets of the transferor that does not give specific property.

(c) A demonstrative gift is a general gift that specifies the fund or property from which the transfer is primarily to be made.

(d) A general pecuniary gift is a pecuniary gift within the meaning of Section 21118.

(e) An annuity is a general pecuniary gift that is payable periodically.

(f) A residuary gift is a transfer of property that remains after all specific and general gifts have been satisfied.

21118. (a) If an instrument authorizes a fiduciary to satisfy a pecuniary gift wholly or partly by distribution of property other than money, property selected for that purpose shall be valued at its fair market value on the date of distribution, unless the instrument expressly provides otherwise. If the instrument permits the fiduciary to value the property selected for distribution as of a date other than the date of distribution, then, unless the instrument expressly provides otherwise, the property selected by the fiduciary for that purpose shall have an aggregate fair market value on the date or dates of distribution that, when added to any cash distributed, will amount to no less than the amount of the pecuniary gift as stated in, or determined by, the instrument.

(b) As used in this section, "pecuniary gift" means a transfer of property made in an instrument that either is expressly stated as a fixed dollar amount or is a dollar amount determinable by the provisions of the instrument.

CHAPTER 2. ASCERTAINING MEANING OF LANGUAGE USED IN THE INSTRUMENT

21120. The words of an instrument are to receive an interpretation that will give every expression some effect, rather than one that will render any of the expressions inoperative. Preference is to be given to an interpretation of an instrument that will prevent intestacy, rather than one that will result in an intestacy.

21121. All the parts of an instrument are to be construed in relation to each other and so as, if possible, to form a consistent whole. If the meaning of any part of an instrument is ambiguous or doubtful, it may be explained by any reference to or recital of that part in another part of the instrument.

21122. The words of an instrument are to be given their ordinary and grammatical meaning unless the intention to use them in another sense is clear and their intended meaning can be ascertained. Technical words are not necessary to give effect to a disposition in an instrument. Technical words in an instrument are to be considered as having been used in their technical sense unless (a) the context clearly indicates a contrary intention or (b) it satisfactorily appears that the instrument was drawn solely by the transferor and that the transferor was unacquainted with the technical sense.

CHAPTER 3. EXONERATION; ADEMPTION

21131. A specific gift passes the property transferred subject to any mortgage, deed of trust, or other lien existing at the date of death, without right of exoneration, regardless of a general directive to pay debts contained in the instrument of transfer.

21132. (a) If the transferor intended a specific gift of certain securities rather than the equivalent value thereof, the beneficiary of the specific gift is entitled only to:

(1) As much of the transferred securities as is a part of the estate at the time of the transferor's death.

(2) Any additional or other securities of the same entity owned by the transferor by reason of action initiated by the entity excluding any acquired by exercise of purchase options.

(3) Securities of another entity owned by the transferor as a result of a merger, consolidation, reorganization or other similar action initiated by the entity.

(4) Any additional securities of the entity owned by the transferor as a result of a plan of reinvestment if it is a regulated investment company.

(b) Distributions prior to death with respect to a security specifically given and not provided for in subdivision (a) are not part of the specific gift.

21133. A recipient of a specific gift has the right to the remaining property specifically given and all of the following:

(a) Any balance of the purchase price (together with any security interest) owing from a purchaser to the transferor at death by reason of sale of the property.

(b) Any amount of an eminent domain award for the taking of the property unpaid at death.

(c) Any proceeds unpaid at death on fire or casualty insurance on the property.

(d) Property owned by the transferor at death as a result of foreclosure, or obtained in lieu of foreclosure, of the security for a specifically given obligation.

21134. (a) Except as otherwise provided in this section, if specifically given property is sold by a conservator, the beneficiary of the specific gift has the right to a general pecuniary gift equal to the net sale price of the property.

(b) Except as otherwise provided in this section, if an eminent domain award for the taking of specifically given property is paid to a conservator, or if the proceeds on fire or casualty insurance on specifically gifted property are paid to a conservator, the recipient of the specific gift has the right to a general pecuniary gift equal to the eminent domain award or the insurance proceeds.

(c) This section does not apply if, after the sale, condemnation, fire, or casualty, the conservatorship is terminated and the transferor survives the termination by one year.

(d) The right of the beneficiary of the specific gift under this section shall be reduced by any right the beneficiary has under Section 21133.

21135. (a) Property given by a transferor during his or her lifetime to a beneficiary is treated as a satisfaction of a testamentary gift to that person in whole or in part only if one of the following conditions is satisfied:

(1) The instrument provides for deduction of the lifetime gift from the testamentary gift.

(2) The transferor declares in a contemporaneous writing that the transfer is to be deducted from the testamentary gift or is in satisfaction of the testamentary gift.

(3) The transferee acknowledges in writing that the gift is in satisfaction of the testamentary gift.

(b) Subject to subdivision (c), for the purpose of partial satisfaction, property given during lifetime is valued as of the time the transferee came into possession or enjoyment of the property or as of the time of death of the transferor, whichever occurs first.

(c) If the value of the gift is expressed in the contemporaneous writing of the transferor, or in an acknowledgment of the transferee made contemporaneously with the gift, that value is conclusive in the division and distribution of the estate.

21136. If the transferor after execution of the transfer instrument enters into an agreement for the sale or transfer of specifically given property, the beneficiary of the specific gift has the right to the property subject to the remedies of the purchaser or transferee.

21137. If the transferor after execution of the transfer instrument places a charge or encumbrance on specifically given property for the purpose of securing the payment of money or the performance of any covenant or agreement, the beneficiary of the specific gift has the right to the property subject to the charge or encumbrance.

21138. If the transferor after execution of the transfer instrument alters, but does not wholly divest, the transferor's interest in property that is specifically given by a conveyance, settlement, or other act, the beneficiary of the specific gift has the right to the remaining interest of the transferor in the property.

21139. The rules stated in Sections 21133 to 21138, inclusive, are not exhaustive, and nothing in those sections is intended to increase the incidence of ademption under the law of this state.

CHAPTER 4. EFFECTIVE DATES

21140. (a) Except as otherwise provided and subject to subdivision (b), this part applies to all instruments, regardless of when they were executed.

(b) The repeal of former Sections 1050, 1051, 1052, and 1053 and the amendment of former Section 1054, by Chapter 842 of the Statutes of 1983, do not apply to cases where the decedent died before January 1, 1985. If the decedent died before January 1, 1985, the case is governed by the former provisions as they would exist had Chapter 842 of the Statutes of 1983 not been enacted.

SEC. 42. Section 8.5 of this bill incorporates amendments to Section 1460 of the Probate Code proposed by both this bill and AB 2810. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 1460 of the Probate Code, and (3) this bill is enacted after AB 2810,

in which case Section 8 of this bill shall not become operative.

SEC. 43. Section 19.5 of this bill, in substantive effect, incorporates amendments to Section 2683 of the Probate Code proposed by both this bill and AB 2810. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 2683 of the Probate Code, and (3) this bill is enacted after AB 2810 in which case Section 19 of this bill shall not become operative.

SEC. 44. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 807

An act to amend Section 12301 of the Penal Code, relating to firearms.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 12301 of the Penal Code is amended to read:

12301. (a) The term "destructive device," as used in this chapter, shall include any of the following weapons:

(1) Any projectile containing any explosive or incendiary material or any other chemical substance, including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.

(2) Any bomb, grenade, explosive missile, or similar device or any launching device therefor.

(3) Any weapon of a caliber greater than 0.60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun (smooth or rifled bore) conforming to the definition of a "destructive device" found in subsection (b) of Section 179.11 of Title 27 of the Code of Federal Regulations, shotgun ammunition (single projectile or shot), antique rifle, or an antique cannon. For purposes of this section, the term "antique cannon" means any cannon manufactured before January 1, 1899, which has been

rendered incapable of firing or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade. The term "antique rifle" means a firearm conforming to the definition of an "antique firearm" in Section 179.11 of Title 27 of the Code of Federal Regulations.

(4) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile, or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device, except such devices as are designed primarily for emergency or distress signaling purposes.

(5) Any breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

(6) Any sealed device containing dry ice (CO_2) or other chemically reactive substances assembled for the purpose of causing an explosion by a chemical reaction.

(b) The term "explosive," as used in this chapter, shall mean any explosive defined in Section 12000 of the Health and Safety Code.

CHAPTER 808

An act relating to the Bear Valley Unified School District, and making an appropriation therefor.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The Legislature finds and declares that the Bear Valley Unified School District, located in the San Bernardino Mountain area, consists of pupils who live in a population service area that ranges in elevation as high as 6,560 feet. Because of the configuration of the school district, including poor weather conditions in the district in the winter, it is unsafe to transport some of the district's pupils, especially those pupils whose residences are at high elevations, over 40 miles each way to attend schools in the Bear Valley Unified School District. Thus, certain pupils in that district are attending schools in the Yucaipa-Calimesa Joint Unified School District. The Redlands Unified School District provides transportation to its secondary school campuses within the City of Redlands for secondary school pupils living in severe and remote geographical conditions, as described in this section. The financial impact on all three school districts has been significant.

SEC. 2. (a) The sum of seventy-seven thousand nine hundred dollars ($77,900) is hereby appropriated to the Superintendent of Public Instruction from the General Fund for the 1994–95 fiscal year for allocation as follows:

(1) Thirty-six thousand five hundred dollars ($36,500) to the Bear Valley Unified School District for the 1994–95 fiscal year for the purpose of costs of transporting pupils to the Yucaipa-Calimesa Joint Unified School District.

(2) Forty-one thousand four hundred dollars ($41,400) to the Redlands Unified School District for the 1994–95 fiscal year for the purpose of the costs of transporting pupils residing in severe and remote geographical conditions, as described in Section 1.

(b) As a condition to the allocations, the Bear Valley Unified School District, the Yucaipa-Calimesa Joint Unified School District, and the Redlands Unified School District shall provide evidence to the Superintendent of Public Instruction that the districts are negotiating a solution to the transportation problem described in Section 1 that provides the safest and most cost-effective method of transporting pupils to the appropriate schools.

(c) Not later than February 1, 1995, the Bear Valley Unified School District and the Redlands Unified School District jointly shall file a report with the Superintendent of Public Instruction that specifies the negotiated solution to the transportation problem, pursuant to subdivision (b). If a report is not filed by February 1, 1995, any funds allocated to the school districts pursuant to this section shall revert to the General Fund of the state prior to June 30, 1995.

(d) It is the intent of the Legislature that no funds shall be appropriated for, or allocated to, the Bear Valley Unified School District or the Redlands Unified School District for the purposes specified in subdivision (a) in any fiscal year after the 1994–95 fiscal year.

SEC. 3. The Legislature finds and declares that due to the unique circumstances in Section 1 of this act regarding the Bear Valley Unified School District, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 809

An act to amend Section 94342 of, and to add Sections 94323 and 94324 to, the Education Code, relating to postsecondary education.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 94323 is added to the Education Code, to read:

94323. (a) This section establishes the procedure for notice and hearing required under this chapter and, except as provided in Sections 94319.12 and 94322, may be used in lieu of other notice or hearing requirements provided in this chapter.

(b) If notice of administrative action is required by this chapter, the council shall serve notice stating the following:

(1) The action, including the penalties and administrative sanctions sought.

(2) The grounds for the action with sufficient particularity to give notice of the transactions, occurrences, violations, or other matters on which the action is based.

(3) The right to a hearing and the time period within which the party subject to the notice may request a hearing in writing. The time period shall not be less than 15 days after service of the notice unless a longer period is provided by statute.

(4) The right to be present at the hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.

(5) The administrative action set forth in the notice will be taken and shall become final if the party subject to the notice does not request a hearing in writing within the time period expressed in the notice.

(c) If a party subject to a notice provided pursuant to subdivision (b) requests a hearing in writing within 10 days of receiving the notice, the council shall schedule a hearing. The hearing shall be held in a location determined pursuant to Section 11508 of the Government Code. The council shall serve reasonable notice of the time and place for the hearing at least 10 days before the hearing. The council may continue the date of the hearing upon a showing of good cause.

(d) (1) Any party, including the council, may submit a written request to any other party before the hearing to obtain the names and addresses of any person who has personal knowledge, or who the party receiving the request claims to have personal knowledge, of any of the transactions, occurrences, violations, or other matters that are the bases of the administrative action. In addition, the requesting party shall have the right to inspect and copy any written statement made by that person and any writing, as defined by Section 250 of

the Evidence Code, or thing that is in the custody, or under the control, of the party receiving the request and that is relevant and not privileged. This subdivision shall constitute the exclusive method for prehearing discovery. However, nothing herein shall affect the council's authority, at any time, to investigate, inspect, monitor, or obtain and copy information under any provision of this chapter.

(2) The written request described in paragraph (1) shall be made before the hearing and within 30 days of the service of the notice described in subdivision (b). Each recipient of a request shall comply with the request within 15 days of its service by providing the names and addresses requested and by producing at a reasonable time at the council's office or another mutually agreed reasonable place the requested writings and things. The council may extend the time for response upon a showing of good cause.

(3) Except as provided in this paragraph, no party may introduce the testimony or statement of any person or any writing or thing into evidence at the hearing if that party failed to provide the name and address of the person or to produce the writing or thing for inspection and copying as provided by this subdivision. A party may introduce the testimony, statement, writing, or thing that was not identified or produced as required herein only if there is no objection or if the party establishes that the person, writing, or thing was unknown at the time when the response was made to the written request, the party could not have informed other parties within a reasonable time after learning of the existence of the person, writing, or thing, and no party would be prejudiced by the introduction of the evidence.

(e) Before the hearing has commenced, the council shall issue subpoenas at the written request of any party for the attendance of witnesses or the production of documents or other things in the custody or under the control of the person subject to the subpoena. Subpoenas issued pursuant to this section shall be subject to Section 11510 of the Government Code.

(f) (1) The council shall designate an impartial hearing officer to conduct the hearing. The hearing officer may administer oaths and affirmations, regulate the course of the hearing, question witnesses, and otherwise investigate the issues, take official notice according to the procedure provided in Division 4 (commencing with Section 450) of the Evidence Code of any technical or educational matter in the council's special field of expertise and of any matter that may be judicially noticed, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, direct any party to appear and confer to consider the simplification of issues by consent, and prepare a statement of decision.

(2) Neither a hearing officer nor any person who has a direct or indirect interest in the outcome of the hearing shall communicate directly or indirectly with each other regarding any issue involved in the hearing while the proceeding is pending without notice and opportunity for all parties to participate in the communication. A

hearing officer who receives any ex parte communication shall immediately disclose the communication to the council and all other parties. The council may disqualify the hearing officer if necessary to eliminate the effect of the ex parte communication. If the council finds that any party willfully violated, or caused the violation of, this paragraph, the council shall enter that party's default and impose the administrative sanction set forth in the notice provided pursuant to subdivision (b).

(g) (1) Each party at the hearing shall be afforded an opportunity to present evidence, respond to evidence presented by other parties, cross-examine, and present written argument or, if permitted by the hearing officer, oral argument on the issues involved in the hearing. The council may call any party as a witness who may be examined as if under cross-examination.

(2) Each party may appear through its representative or through legal counsel.

(3) The technical rules relating to evidence and witnesses shall not apply. However, only relevant evidence is admissible.

(4) Oral evidence shall be taken only upon oath or affirmation. The hearing shall be conducted in the English language. The proponent of any testimony to be offered by a witness who is not proficient in English shall provide, at the proponent's cost, an interpreter proficient in English and the language in which the witness will testify.

(5) The hearing shall be recorded by tape recording or other phonographic means unless all parties agree to another method of recording the proceedings.

(6) (A) At any time 10 or more days before the hearing, any party may serve on the other parties a copy of any declaration which the party proposes to introduce in evidence.

(B) The declaration shall be accompanied by a notice indicating the date of service of the notice and stating that the declarations will be offered into evidence, the declarants will not be called as witnesses, and there will be no right of cross-examination unless the party receiving the notice requests the right to cross-examine, in writing, within seven days of the service of the declarations and notice.

(C) If no request for cross-examination is served within seven days of the service of the declarations and notice described in subparagraph (B), the right to cross-examination is deemed waived and the declaration shall have the same effect as if the declarant testified orally. Notwithstanding this paragraph, a declaration may be admitted as hearsay evidence without cross-examination.

(7) Disposition of any issues involved in the hearing may be made by stipulation or settlement.

(8) If a party fails to appear at a hearing, that party's default shall be taken and the party shall be deemed to have waived the hearing and agreed to the administrative action and the grounds for that action described in the notice given pursuant to subdivision (b). The

council shall serve the party with an order of default including the administrative action ordered. The order shall be effective upon service or at any other time designated by the council. The council may relieve a party from an order of default if the party applies for relief within 15 days after the service of an order of default and establishes good cause for relief. An application for relief from default shall not stay the effective date of the order unless expressly provided by the council.

(h) (1) At any time before the matter is submitted for decision, the council may amend the notice provided pursuant to subdivision (b) to set forth any further grounds for the originally noticed administrative action or any additional administrative action and the grounds therefor. The statement of the further grounds for the originally noticed administrative action, or of the grounds for any additional administrative action, shall be made with sufficient particularity to give notice of the transactions, occurrences, violations, or other matters on which the action or additional action is based. The amended notice shall be served on all parties. All parties affected by the amended notice shall be given reasonable opportunity to respond to the amended notice as provided in this section.

(2) The council may amend the notice after the case is submitted for decision. The council shall serve each party with notice of the intended amendment and shall provide the party with an opportunity to show that the party will be prejudiced by the amendment unless the case is reopened to permit the party to introduce additional evidence. If prejudice is shown, the council shall reopen the case to permit the introduction of additional evidence.

(i) (1) Within 30 days after the conclusion of the hearing or at another time established by the council, the hearing officer shall submit a written statement of decision setting forth a recommendation for a final decision and explaining the factual and legal basis for the decision as to each of the grounds for the administrative action set forth in the notice or amended notice. The council shall serve the hearing officer's statement of decision on each party and its counsel within 10 days of its submission by the hearing officer.

(2) The council shall make the final decision which shall be based exclusively on evidence introduced at the hearing. The final decision shall be supported by substantial evidence in the record. The council also shall issue a statement of decision explaining the factual and legal basis for the final decision as to each of the grounds for the administrative action set forth in the notice or amended notice. The council shall issue an order based on its decision which shall be effective upon service or at any other time designated by the council. The council shall serve a copy of the final decision and order, within 10 days of their issuance, on each party and its counsel.

(3) The council may hold a closed session to deliberate on a decision to be reached based upon evidence introduced at the

hearing.

(4) The council shall serve a certified copy of the complete record of the hearing, or any part thereof designated by a party, within 30 days after receiving the party's written request and payment of the cost of preparing the requested portions of the record. The complete record shall include all notices and orders issued by the council, a transcript of the hearing, the exhibits admitted or rejected, the written evidence and any other papers in the case, the hearing officer's statement of decision, and the final decision and order.

(j) The council shall serve all notices and other documents that are required to be served by this section on each party by personal delivery, by certified mail, return receipt requested, or by any other means designated by the council.

(k) (1) Any party aggrieved by the council's final decision and order may seek judicial review by filing a petition for a writ of mandate pursuant to Section 1085 of the Code of Civil Procedure within 30 days of the issuance of the final decision and order. If review is not sought within that period, the party's right to review shall be deemed waived.

(2) The aggrieved party shall present the complete record of the hearing or all portions of the record necessary for the court's review of the council's final decision and order. The court shall deny the petition for a writ of mandate if the record submitted by the party is incomplete. The court shall not consider any matter not contained in the record. The factual bases supporting the final decision set forth in the council's statement of decision shall be conclusive if supported by substantial evidence on the record considered as a whole.

(3) The final order shall not be stayed or enjoined during review except upon the court's grant of an order on a party's application after due notice to the council and the Attorney General. The order shall be granted only if the party establishes the substantial likelihood that it will prevail on the merits and posts a bond sufficient to protect fully the interests of the students, the council, and the Student Tuition Recovery Fund, from any loss.

(*l*) The council may adopt regulations establishing alternative means of providing notice and an opportunity to be heard in circumstances in which a full hearing is not required by law.

(m) For purposes of this section, "good cause" shall require sufficient ground or reason for the determination to be made by the council.

SEC. 2. Section 94324 is added to the Education Code, to read:

94324. An institution may not claim an exception pursuant to Section 94316.1, if the council finds, after notice and hearing as provided in Section 94323, that the institution adopted a form of organization or method of operation for the purpose of avoiding any provision of this chapter.

SEC. 3. Section 94342 of the Education Code is amended to read:

94342. (a) The council shall establish and maintain a Student Tuition Recovery Fund, with a degree-granting postsecondary

educational institution account and a vocational educational institution account, for the purpose of relieving or mitigating pecuniary losses suffered by any California resident who is a student of an approved institution and who meets either of the following conditions:

(1) The student was enrolled in an institution, prepaid tuition, and suffered loss as a result of (A) the closure of the institution, (B) the institution's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purposes, or to provide equipment or materials for which a charge was collected within 180 days before the institution's closure, (C) the institution's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the institution prior to closure in excess of tuition and other costs, (D) the institution's breach or anticipatory breach of the agreement for the course of instruction, or (E) a decline in the quality or value of the course of instruction within the 30-day period before the institution's closure or, if the decline began before that period, the period of decline determined by the council. For the purpose of this section, "closure" includes closure of a branch or satellite campus, the termination of either the correspondence or residence portion of a home study or correspondence course, and the termination of a course of instruction for some or all of the students enrolled in the course before the time these students were originally scheduled to complete it, or before a student who has been continuously enrolled in a course of instruction has been permitted to complete all the educational services and classes that comprise the course.

(2) The student obtained a judgment against the institution for any violation of this chapter and the student certifies that the judgment cannot be collected after diligent collection efforts.

(b) Payments from the fund to any student shall be made from the appropriate account with the fund, as determined by the type of institution into which the student has paid his or her fees, and shall be subject to any regulations and conditions as the council shall prescribe.

(c) (1) The institution shall provide to the council at the time of the institution's closure the names and addresses of persons who were students of an institution within 60 days prior to its closure, and shall notify these students, within 30 days of the institution's closure, of their rights under the Student Tuition Recovery Fund and how to apply for payment. If the institution fails to comply with this subdivision, the council shall attempt to obtain the names and addresses of these students and shall notify them, within 90 days of the institution's closure, of their rights under the Student Tuition Recovery Fund and how to apply for payment.

The council shall develop a form in English and Spanish fully explaining a student's rights, which shall be used by the institution or the council to comply with this paragraph. The form shall include

or be accompanied by a claim application and an explanation of how to complete the application.

(2) If an institution fails to comply with paragraph (1), the council shall order the institution, or any person responsible for the failure to provide notice as required by paragraph (1), to reimburse the council for all reasonable costs and expenses incurred in notifying students as required in paragraph (1). In addition, the council may impose a penalty of up to five thousand dollars ($5,000) against the institution and any person found responsible for the failure to provide notice. The amount of the penalty shall be based on the degree of culpability and the ability to pay. Any order may impose joint and several liability. Before any order is made pursuant to this paragraph, the council shall provide written notice to the institution and any person from whom the council seeks recovery of the council's claim and of the right to request a hearing within 30 days of the service of the notice. If a hearing is not requested within 30 days of service of the notice, the council may order payment in the amount of the claim. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply, and the council shall have all of the powers therein prescribed. Within 30 days after the effective date of the issuance of an order, the council may enforce the order in the same manner as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 1 of the Code of Civil Procedure. All penalties and reimbursements paid pursuant to this section shall be deposited in the Private Postsecondary and Vocational Education Administration Fund established pursuant to Section 94331 or any successor fund.

(d) (1) Students entitled to payment as provided in paragraph (1) of subdivision (a) shall file with the council a verified application indicating each of the following:

(A) The student's name, address, telephone number, and social security number.

(B) If any portion of the tuition was paid from the proceeds of a loan, the name of the lender and any state or federal agency that guaranteed or reinsured the loan.

(C) The amount of the prepaid tuition, the amount and description of the student's loss, and the amount of the student's claim.

(D) The date the student started and ceased attending the institution.

(E) A description of the reasons the student ceased attending the institution.

(F) If the student ceased attending because of a breach or anticipatory breach or because of the decline in the quality or value of the course of instruction as described in subparagraph (E) of paragraph (1) of subdivision (a), a statement describing in detail the nature of the loss incurred. The application shall be filed within one year of the council's service on the student of the notice described

in paragraph (1) of subdivision (c) or, if no notice is served, within four years of the institution's closure.

(2) Students entitled to payment as provided in paragraph (2) of subdivision (a) shall file with the council a verified application indicating the student's name, address, telephone number, and social security number, the amount of the judgment obtained against the institution, a statement that the judgment cannot be collected, and a description of the efforts attempted to enforce the judgment. The application shall be accompanied by a copy of the judgment and any other documents indicating the student's efforts made to enforce the judgment.

The application shall be filed within two years after the date upon which the judgment became final.

(3) The council may require additional information designed to facilitate payment to entitled students. The council shall relieve a student from the requirement to provide all of the information required by this subdivision if the council has the information or the information is not reasonably necessary for the resolution of a student's claim.

(e) Within 60 days of the council's receipt of a completed application for payment, the council shall pay the claim from the Student Tuition Recovery Fund or deny the claim. The council , for good cause, may extend the time period for up to an additional 90 days to investigate the accuracy of the claim.

(f) (1) If the council pays the claim, the amount of the payment shall be (A) the greater of either (i) the total guaranteed student loan debt incurred by the student in connection with attending the institution, or (ii) the total of the student's tuition and the cost of equipment and materials related to the course of instruction, less (B) the amount of any refund, reimbursement, indemnification, restitution, compensatory damages, settlement, debt forgiveness, discharge, cancellation, or compromise, or any other benefit received by, or on behalf of, the student before the council's payment of the claim in connection with the student loan debt or cost of tuition, equipment, and materials. The payment also shall include the amount the institution collected and failed to pay to third parties on behalf of the student for license fees or any other purpose.

However, if the claim is based solely on the circumstances described in subparagraph (B) or (C) of paragraph (1) of subdivision (a), the amount of the payment shall be the amount of the loss suffered by the student.

In addition to the amount determined under this paragraph, the amount of the payment shall include all interest and collection costs on all student loan debt incurred by the student in connection with attending the institution.

(2) The council may reduce the total amount specified in paragraph (1) by the value of the benefit, if any, of the education obtained by the student before the closure of the institution. If the council makes any reduction pursuant to this paragraph, the council

shall notify the claimant in writing at the time the claim is paid of the basis of its decision and provide a brief explanation of the reasons upon which the council relied in computing the amount of the reduction.

(3) No reduction shall be made to the amount specified in paragraph (1) if (A) the student did not receive adequate instruction to obtain the training, skills, or experience, or employment to which the instruction was represented to lead, or (B) credit for the instruction obtained by the student is not generally transferable to other institutions approved by the council.

(4) The amount of the payment determined under this subdivision is not dependent on the amount of the refund to which the student would have been entitled after a voluntary withdrawal.

(5) Upon payment of the claim, all of the student's rights against the institution shall be deemed assigned to the council to the extent of the amount of the payment.

(g) (1) The director of the council may negotiate with a lender, holder, guarantee agency, or the United States Department of Education for the full compromise or write-off of student loan obligations to relieve students of loss and thereby reduce the amount of student claims.

(2) The director of the council, with the student's permission, may pay a student's claim directly to the lender, holder, guarantee agency, or United States Department of Education under a federally guaranteed student loan program only if the payment of the claim fully satisfies all of the student's loan obligations related to attendance at the institution for which the claim was filed.

(3) Notwithstanding subdivision (e), the council may delay the payment of a claim pending the resolution of the council's attempt to obtain a compromise or write-off of the claimant's student loan obligation. However, the council shall immediately pay the claim in the event any adverse action that is not stayed is taken against the claimant, including the commencement of a civil or administrative action, tax offset, the enforcement of a judgment, or the denial of any government benefit.

(h) If the council denies the claim, or reduces the amount of the claim pursuant to paragraph (2) of subdivision (f), the council shall notify the student of the denial or reduction and of the student's right to request a hearing within 60 days or any longer period permitted by the council. If a hearing is not requested within 60 days or any additional period reasonably requested by the student, the council's decision shall be final. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply.

It is the intent of the Legislature that, when a student is enrolled in an institution that closes prior to the completion of the student's program, the student shall have the option for a teach-out at another institution approved by the council. The council shall seek to promote teach-out opportunities wherever possible and shall inform

the student of his or her rights, including payment from the fund, transfer opportunities, and available teach-out opportunities, if any.

(i) This section applies to all claims filed or pending after January 1, 1990.

CHAPTER 810

An act to add Section 625.5 to the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 625.5 is added to the Welfare and Institutions Code, to read:

625.5. (a) It is the intent of the Legislature in enacting this section to accomplish the following purposes:

(1) To safeguard the fiscal integrity of cities and counties by enabling them to recoup the law enforcement costs of identifying, detaining, and transporting minors who violate curfew ordinances to their places of residence.

(2) To encourage parents and legal guardians to exercise reasonable care, supervision, and control over their minor children so as to prevent them from committing unlawful acts.

(3) To help eradicate criminal street gang activity.

(b) This section shall only apply to a city, county, or city and county in which the governing body of the city, county, or city and county has enacted an ordinance prohibiting minors from remaining in or upon the public streets unsupervised after hours and has adopted a resolution to implement this section.

(c) Except as provided in subdivision (d), law enforcement personnel are authorized to temporarily detain any minor upon a reasonable suspicion based on articulable facts that the minor is in violation of the ordinance described in subdivision (b) and to transport that minor to his or her place of permanent or temporary residence within the state, whether the place of residence is located within or without the jurisdiction of the governing body, or to the custody of his or her parents or legal guardian. A law enforcement officer may decide not to temporarily detain and transport a minor if he or she determines that the minor has a legitimate reason based on extenuating circumstances for violating the ordinance.

(d) Upon the first violation of the ordinance described in subdivision (b), the law enforcement officer shall issue to the minor a warning citation regarding the consequences of a second violation of the ordinance. A designated representative of the governmental entity issuing the citation shall mail to the parents of the minor or

legal guardian a notification that states that upon a second violation, the parents or legal guardian may be held liable for actual administrative and transportation costs, and that requires the parents or legal guardian to sign and return the notification. This notification shall include a space for the explanation of any circumstances relevant to an applicable exemption from the fee as provided by subdivision (e). This explanation shall be reviewed by a designated representative of the governmental entity that issued the citation and notification. If the explanation is found to be insufficient, the representative may request a consultation with the parents or legal guardian for the purpose of discussing the circumstances claimed to be relevant to an applicable exemption.

(e) A fee for the actual costs of administrative and transportation services for the return of the minor to his or her place of residence, or to the custody of his or her parents or legal guardian, may be charged jointly or severally to the minor, his or her parents, or legal guardian, in an amount not to exceed those actual costs. Upon petition of the person required to pay the fee, the governmental entity issuing the citation shall conduct a hearing as to the validity of the fees charged, and may waive payment of the fee by the minor, his or her parents, or legal guardian, upon a finding of good cause. If authorized by the governing body, the city, county, or city and county may charge this fee, in which case the city, county, or city and county may (1) provide for waiver of the payment of the fee by the parents or legal guardian upon a determination that the person has made reasonable efforts to exercise supervision and control over the minor, (2) provide for a determination of the ability to pay the fee and provide that the fee may be waived if neither the minor nor the parents or legal guardian has the ability to pay the fee, (3) provide for the performance of community service in lieu of imposition of the fee, and (4) provide for waiver of the payment of the fee by the parents or legal guardian upon a determination that the parents or legal guardian has limited physical or legal custody and control of the minor.

(f) In a civil action commenced by a city, county, or city and county to collect the fee, a court may waive payment of the fee by the minor, his or her parents, or legal guardian, upon a finding of good cause.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the

California Constitution.

CHAPTER 811

An act to amend Sections 70141, 70141.9, 73649.1, 73672.6, 73960, 74001.5, 74346, 74701.5, 74743, and 74841.5 of, to add Sections 73435.1, 74143.2, and 74603 to, and to repeal Section 73960.1 of, the Government Code, relating to courts.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 70141 of the Government Code is amended to read:

70141. (a) To assist the court in disposing of its business connected with the administration of justice, the superior court of any city and county may appoint not exceeding 10 commissioners, and the superior court of every county, except a county with a population of 4,000,000 or over, may appoint one commissioner. Each person so appointed shall be designated as "court commissioner" of the county.

(b) In addition to the court commissioners authorized by subdivision (a) or any other provision of law, either the superior court or the municipal court, but not both, of any county or city and county may appoint one additional commissioner, at the same rate of compensation as the other commissioner or commissioners for that court, upon adoption of a resolution by the board of supervisors pursuant to subdivision (c).

(c) The county or city and county shall be bound by, and the resolution adopted by the board of supervisors shall specifically recognize, the following conditions:

(1) The county or city and county has sufficient funds for the support of the position and any staff who will provide direct support to the position, agrees to assume any and all additional costs that may result therefrom, and agrees that no state funds shall be made available, or shall be used, in support of this position or any staff who provide direct support to this position.

(2) The additional commissioner shall not be deemed a judicial position for purposes of calculating trial court funding pursuant to Section 77202.

(3) The salary for this position and for any staff who provide direct support to this position shall not be considered as part of court operations for purposes of Sections 77003 and 77204.

(4) The county or city and county agrees not to seek funding from the state for payment of the salary, benefits, or other compensation for such a commissioner or for any staff who provide direct support

to such a commissioner.

(d) The court may provide that the additional commissioner may perform all duties authorized for a commissioner of that court in the county. In a county or city and county that has undertaken a consolidation of the trial courts, the additional commissioner shall be appointed by the superior, municipal, or justice courts pursuant to the consolidation agreement.

SEC. 2. Section 70141.9 of the Government Code is amended to read:

70141.9. In a county of the 11th class, the superior court, subject to prior approval by the board of supervisors, may appoint four commissioners. However, at such time as the board of supervisors finds that there are sufficient funds for up to seven commissioners, and adopts a resolution to that effect, there shall be seven commissioners for the superior court. Authorization of the fifth, sixth, and seventh positions shall not increase trial court funding provided to Riverside County pursuant to Sections 77003 and 77004. The superior court may provide that the commissioners, in addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the duties of a probate commissioner appointed pursuant to Section 69897. The superior court may also authorize the commissioners to perform the duties of a juvenile court referee appointed pursuant to Section 247 of the Welfare and Institutions Code. Any commissioner authorized to perform the duties set forth above shall receive a salary equal to 75, 80, or 85 percent of the salary of a judge of the superior court. The court shall determine the level of the salary to be received by a court commissioner, making adjustments on the three levels in accordance with the qualifications, performance, and other factors deemed relevant by the court. The salary shall be adjusted by the court at the time and in the manner specified in Section 68203. Each commissioner shall also be allowed actual traveling expenses pursuant to Section 70148.

The amendment of this section made at the 1985-86 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 3. Section 73435.1 is added to the Government Code, to read:

73435.1. (a) The judges of the East Kern Municipal Court may appoint one commissioner. The commissioner shall possess the same qualifications as the law requires of a judge of the court. Within the jurisdiction of the court and under the direction of the judges, the commissioner shall exercise the powers and perform the duties authorized by law to be performed by the commissioners of the superior court and any additional powers and duties as may be prescribed by law.

(b) The commissioner shall be paid biweekly, pursuant to the payroll procedures in effect in the County of Kern, in an amount equal to 70 to 85 percent of a municipal court judge's salary. The court shall recommend to the board of supervisors the level of salary

to be received by the commissioner based on his or her qualifications, performance, and other factors deemed relevant by the court, and the board of supervisors shall determine the salary level within the specified range. The biweekly salary rate of the commissioner shall be adjusted at the same time and manner and in the same percentage amount as set forth in Section 68203.

(c) In addition to the compensation provided for in this section, each commissioner shall be entitled to and shall receive on the same basis as other county employees, the same benefits and privileges with respect to retirement, group insurance, sick leave, and vacation. The commissioner shall observe the same holidays as other court employees.

SEC. 4. Section 73649.1 of the Government Code is amended to read:

73649.1. (a) By order entered in the minutes of the court, a majority of judges may appoint two commissioners. However, if the board of supervisors finds that there are sufficient funds for one additional commissioner and adopts a resolution to that effect, a majority of judges may appoint an additional commissioner. The commissioners shall serve at the pleasure of the judges and shall receive a salary equal to 80 percent of the salary of a judge of the municipal court.

(b) A commissioner shall receive and be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for a deputy county counsel IV in the classified service of the County of San Diego. However, a commissioner shall be entitled to (1) earn sick leave credit at the rate of 5 percent of each hour of paid service during the pay period, and (2) earn vacation credit at the rate of 8.075 percent of each hour of paid service during the pay period.

(c) With the approval of a majority of judges of the court and the board of supervisors, a commissioner may be reimbursed for any payment he or she makes for his or her annual State Bar of California membership fee.

SEC. 5. Section 73672.6 of the Government Code is amended to read:

73672.6. There is one municipal court commissioner, who shall be appointed pursuant to Article 10 (commencing with Section 72450) of Chapter 9. However, operative July 1, 1992, there shall be two municipal court commissioners.

Any municipal court commissioner appointed pursuant to Article 10 (commencing with Section 72450) of Chapter 9 to serve a municipal court district in the County of Solano shall receive compensation at a range of 60 to 80 percent of a superior court judge's salary. The presiding judge of the municipal court has the authority to place individuals in this range.

SEC. 6. Section 73960 of the Government Code is amended to read:

73960. (a) By order entered in the minutes of the court, a

majority of judges may appoint three commissioners. However, if the board of supervisors finds that there are sufficient funds for up to two additional commissioners and adopts a resolution or resolutions to that effect, a majority of judges may appoint up to two additional commissioners. A commissioner shall serve at the pleasure of the judges and shall receive a biweekly salary equal to 80 percent of the salary of a judge of a municipal court.

(b) A commissioner shall receive and be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for a deputy county counsel IV in the classified service of the County of San Diego. However, a commissioner shall be entitled to (1) earn sick leave credit at the rate of 5 percent of each hour of paid service during the pay period, and (2) earn vacation credit at the rate of 8.075 percent of each hour of paid service during the pay period.

(c) With the approval of a majority of judges of the court and the board of supervisors, each commissioner may be reimbursed for any payment he or she makes for his or her annual State Bar of California membership fee.

SEC. 7. Section 73960.1 of the Government Code is repealed.

SEC. 8. Section 74001.5 of the Government Code is amended to read:

74001.5. The judges of the Central Orange County Judicial District may appoint two court commissioners. The judges of the Orange County Harbor Judicial District may appoint two court commissioners. The judges of the North Orange County Judicial District may appoint two court commissioners, provided that at such time as the board of supervisors finds that there are sufficient funds for one additional court commissioner and adopts a resolution to that effect, there shall be up to three court commissioners. The judges of the South Orange County Judicial District may appoint one court commissioner, provided that at such time as the board of supervisors finds that there are sufficient funds for up to three additional court commissioners and adopts a resolution or resolutions to that effect, there shall be up to four court commissioners. The judges of the West Orange County Judicial District may appoint two court commissioners.

The commissioners shall have the additional powers and duties prescribed by Section 259 of the Code of Civil Procedure. The commissioners shall possess the same qualifications as the law requires of a judge of the municipal court. The commissioners shall hold office at the pleasure of the judges and shall receive a monthly salary in the same sum as is paid a commissioner of the Orange County Superior Court. The commissioners shall be ex officio deputy clerks of the court and shall be members of any retirement system which includes the attachés of the court. The commissioners shall not engage in the private practice of law.

SEC. 9. Section 74143.2 is added to the Government Code, to read:

74143.2. When the board of supervisors finds that there are sufficient funds for a second court commissioner for the Three Lakes Judicial District and adopts a resolution to that effect, there shall be two court commissioners for the Three Lakes Judicial District. However, if the Legislature subsequently authorizes one additional judge for the district and the board of supervisors finds there are sufficient funds for the additional judge, the board of supervisors may eliminate the second commissioner position for the Three Lakes Judicial District at any time after the additional judge is sworn into office. The second court commissioner shall have the same powers and receive the same salary specified in Section 74135.1.

The second commissioner position shall not be counted in the calculation of trial court funding pursuant to Section 77202, and the salary for this position shall not be considered as part of court operations for Riverside County for purposes of Sections 77003 and 77204.

SEC. 10. Section 74346 of the Government Code is amended to read:

74346. (a) There shall be eight commissioners who shall hold office at the pleasure of the judges. A commissioner shall receive a salary equal to 80 percent of the salary of a judge of the municipal court.

(b) A commissioner shall receive and be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for a deputy county counsel IV in the classified service of the County of San Diego. However, a commissioner shall be entitled to (1) earn sick leave credit at the rate of 5 percent of each hour of paid service during the pay period; and (2) earn vacation credit at the rate of 8.075 percent of each hour of paid service during the pay period.

(c) With the approval of a majority of the judges of the court and the board of supervisors, each commissioner may be reimbursed for any payment he or she makes for his or her annual State Bar of California membership fee.

SEC. 11. Section 74603 is added to the Government Code, to read:

74603. There shall be one commissioner of the San Luis Obispo County Municipal Court, who shall be appointed by the presiding judge with the concurrence of a majority of the judges of the court, and shall hold office at the pleasure of a majority of the judges. The commissioner shall possess the same qualifications as the law requires of a judge of the municipal court. The appointment shall be pursuant to Section 72190 and the commissioner shall receive a salary which equals 85 percent of the annual salary of a municipal court judge. The commissioner is a court employee within the meaning of Section 74609. The duties of the commissioner shall be as prescribed by law.

SEC. 12. Section 74701.5 of the Government Code is amended to read:

74701.5. The judges of the Sonoma County Municipal Court may, by majority vote, appoint two court commissioners who shall meet

the qualifications and have the powers and duties specified in Sections 72190 and 72190.1 of this code, and Section 259 of the Code of Civil Procedure. However, if the board of supervisors finds that there are sufficient funds for one additional court commissioner and adopts a resolution to that effect, there shall be three court commissioners. Any commissioner so appointed shall also have the power and duties of a traffic referee, as provided in Article 9 (commencing with Section 72400) of Chapter 8 of Title 8. The salary of the commissioner for all duties performed pursuant to this section shall be equal to 85 percent of the annual salary of a judge of a municipal court. The commissioner shall be a member of the Sonoma County Retirement System and shall receive vacation, sick leave, and fringe benefits identical to those provided Sonoma County administrative management employees.

SEC. 13. Section 74743 of the Government Code is amended to read:

74743. (a) By order entered in the minutes of the court, a majority of judges may appoint two commissioners. However, if the board of supervisors finds that there are sufficient funds for one additional commissioner and adopts a resolution to that effect, a majority of judges may appoint an additional commissioner. The commissioners shall serve at the pleasure of the judges and shall receive a salary equal to 80 percent of the salary of a judge of the municipal court.

(b) A commissioner shall receive and be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for a deputy county counsel IV in the classified service of the County of San Diego. However, a commissioner shall be entitled to (1) earn sick leave credit at the rate of 5 percent of each hour of paid service during the pay period; and (2) earn vacation credit at the rate of 8.075 percent of each hour of paid service during the pay period.

(c) With the approval of a majority of the judges of the court and the board of supervisors, a commissioner may be reimbursed for any payment he or she makes for his or her annual State Bar of California membership fee.

SEC. 14. Section 74841.5 of the Government Code is amended to read:

74841.5. There is one traffic trial commissioner, who shall be appointed by the presiding judge with concurrence of the judges of the court, and shall hold office at the pleasure of the judges.

The qualifications, powers and duties, and compensation of the commissioner shall be determined pursuant to Article 10 (commencing with Section 72450) of Chapter 9.

The traffic trial commissioner position shall not be counted in the calculation of trial court funding pursuant to Section 77202, and the salary for this position shall not be considered as a part of court operations for Solano County for purposes of Sections 77003 and 77204.

SEC. 15. The authorization of any additional court commissioner position by this act is subject to the following conditions:

(a) The court has consolidated its municipal and superior court administration.

(b) The court has achieved at least 70 percent coordination of its superior and municipal courts and other functions pursuant to a coordination plan approved by the Judicial Council pursuant to Section 68112 of the Government Code.

(c) The court commissioner positions shall not be funded with funds received pursuant to the Brown-Presley Trial Court Funding Act (Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code), and the county has agreed not to seek funding from the state for these positions.

SEC. 16. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 812

An act to add Part 1.98 (commencing with Section 449.10) to Division 1 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Part 1.98 (commencing with Section 449.10) is added to Division 1 of the Health and Safety Code, to read:

PART 1.98. HOSPITALS: COMMUNITY BENEFITS

449.10. The Legislature finds and declares all of the following:

(a) Private not-for-profit hospitals meet certain needs of their communities through the provision of essential health care and other services. Public recognition of their unique status has led to favorable tax treatment by the government. In exchange, nonprofit hospitals assume a social obligation to provide community benefits in the public interest.

(b) Hospitals and the environment in which they operate have undergone dramatic changes. The pace of change will accelerate in response to health care reform. In light of this, significant public benefit would be derived if private not-for-profit hospitals reviewed and reaffirmed periodically their commitment to assist in meeting their communities' health care needs by identifying and documenting benefits provided to the communities which they serve.

(c) California's private not-for-profit hospitals provide a wide range of benefits to their communities in addition to those reflected in the financial data reported to the state.

(d) Unreported community benefits that are often provided but not otherwise reported include, but are not limited to, all of the following:

(1) Community-oriented wellness and health promotion.

(2) Prevention services, including, but not limited to, health screening, immunizations, school exams, and disease counseling and education.

(3) Adult day care.

(4) Child care.

(5) Medical research.

(6) Medical education.

(7) Nursing and other professional training.

(8) Home-delivered meals to the homebound.

(9) Sponsorship of free food, shelter, and clothing to the homeless.

(10) Outreach clinics in socioeconomically depressed areas.

(e) Direct provision of goods and services, as well as preventive programs, should be emphasized by hospitals in the development of community benefit plans.

449.15. As used in this part, the following terms have the following meanings:

(a) "Community benefits plan" means the written document prepared for annual submission to the Office of Statewide Health Planning and Development that shall include, but shall not be limited to, a description of the activities that the hospital has undertaken in order to address identified community needs within its mission and financial capacity, and the process by which the hospital developed the plan in consultation with the community.

(b) "Community" means the service areas or patient populations for which the hospital provides health care services.

(c) Solely for the planning and reporting purposes of this part, "community benefit" means a hospital's activities that are intended to address community needs and priorities primarily through disease prevention and improvement of health status, including, but not limited to, any of the following:

(1) Health care services, rendered to vulnerable populations, including, but not limited to, charity care and the unreimbursed cost of providing services to the uninsured, underinsured, and those eligible for Medi-Cal, Medicare, California Childrens Services

Program, or county indigent programs.

(2) The unreimbursed cost of services included in subdivision (d) of Section 449.10.

(3) Financial or in-kind support of public health programs.

(4) Donation of funds, property, or other resources that contribute to a community priority.

(5) Health care cost containment.

(6) Enhancement of access to health care or related services that contribute to a healthier community.

(7) Services offered without regard to financial return because they meet a community need in the service area of the hospital, and other services including health promotion, health education, prevention, and social services.

(8) Food, shelter, clothing, education, transportation, and other goods or services that help maintain a person's health.

(d) "Community needs assessment" means the process by which the hospital identifies, for its primary service area as determined by the hospital, unmet community needs.

(e) "Community needs" means those requisites for improvement or maintenance of health status in the community.

(f) "Hospital" means a private not-for-profit acute hospital licensed under subdivision (a), (b), or (f) of Section 1250 and is owned by a corporation that has been determined to be exempt from taxation under the United States Internal Revenue Code. "Hospital" does not mean any of the following:

(1) Hospitals that are dedicated to serving children and that do not receive direct payment for services to any patient.

(2) Small and rural hospitals as defined in Section 1188.855.

(g) "Mission statement" means a hospital's primary objectives for operation as adopted by its governing body.

(h) "Vulnerable populations" means any population that is exposed to medical or financial risk by virtue of being uninsured, underinsured, or eligible for Medi-Cal, Medicare, California Childrens Services Program, or county indigent programs.

449.20. Each hospital shall do all of the following:

(a) By July 1, 1995, reaffirm its mission statement that requires its policies integrate and reflect the public interest in meeting its responsibilities as a not-for-profit organization.

(b) By January 1, 1996, complete, either alone, in conjunction with other health care providers, or through other organizational arrangements, a community needs assessment evaluating the health needs of the community serviced by the hospital, that includes, but is not limited to, a process for consulting with community groups and local government officials in the identification and prioritization of community needs that the hospital can address directly, in collaboration with others, or through other organizational arrangement. The community needs assessment shall be updated at least once every three years.

(c) By April 1, 1996, and annually thereafter adopt and update a

community benefits plan for providing community benefits either alone, in conjunction with other health care providers, or through other organizational arrangements.

(d) Annually submit its community benefits plan, including, but not limited to, the activities that the hospital has undertaken in order to address community needs within its mission and financial capacity to the Office of Statewide Health Planning and Development. The hospital shall, to the extent practicable, assign and report the economic value of community benefits provided in furtherance of its plan. Effective with hospital fiscal years, beginning on or after January 1, 1996, each hospital shall file a copy of the plan with the office not later than 150 days after the hospital's fiscal year ends. The reports filed by the hospitals shall be made available to the public by the office. Hospitals under the common control of a single corporation or another entity may file a consolidated report.

449.25. The hospital shall include all of the following elements in its community benefits plan:

(a) Mechanisms to evaluate the plan's effectiveness including, but not limited to, a method for soliciting the views of the community served by the hospital and identification of community groups and local government officials consulted during the development of the plan.

(b) Measurable objectives to be achieved within specified timeframes.

(c) Community benefits categorized into the following framework:

(1) Medical care services.

(2) Other benefits for vulnerable populations.

(3) Other benefits for the broader community.

(4) Health research, education, and training programs.

(5) Nonquantifiable benefits.

449.30. Nothing in this part shall be construed to authorize or require specific formats for hospital needs assessments, community benefit plans, or reports until recommendations pursuant to Section 449.35 are considered and enacted by the Legislature.

Nothing in this part shall be used to justify the tax-exempt status of a hospital under state law. Nothing in this part shall preclude the office from requiring hospitals to directly report their charity activities.

449.35. The Office of Statewide Health Planning and Development shall prepare and submit a report to the Legislature by October 1, 1997, including all of the following:

(a) The identification of all hospitals that did not file plans on a timely basis.

(b) A statement regarding the most prevalent characteristics of plans in terms of identifying and emphasizing community needs.

(c) Recommendations for standardization of plan formats, and recommendations regarding community benefits and community priorities that should be emphasized. These recommendations shall

be developed after consultation with representatives of the hospitals, local governments, and communities.

CHAPTER 813

An act to amend Sections 14115, 14125, and 14125.4 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 14115 of the Welfare and Institutions Code is amended to read:

14115. (a) Bills for service under this chapter shall be submitted not more than six months after the month in which the service is rendered, and shall be in the form prescribed by the director, except that in the event the patient does not identify himself or herself to the provider as a Medi-Cal beneficiary within four months after the month in which the service was rendered, the provider shall be entitled to submit his or her statement at any time within 60 days after that date certified by the provider as the date the patient was first identified as a Medi-Cal beneficiary. However, the date certified by the provider as the date the patient was first so identified shall not be later than one year after the month in which the service was rendered. Whenever a provider has submitted a claim to a liable third party, the provider shall have one year after the month in which the service is rendered for submission of the bill. Whenever a legal proceeding has been commenced with either an administrative or judicial tribunal concerning a bill for which the provider is attempting to obtain payment from a liable third party, the provider shall have one year in which to submit the bill after the month in which the services have been rendered. A copy of the pleadings shall be conclusively presumed to be sufficient evidence of commencement of a legal proceeding.

(b) The director may, where he or she finds that delay in the submission of bills was caused by circumstances beyond the control of the provider, extend the period for submission of bills for a period not to exceed one year.

(c) (1) Reimbursement for an original claim, submitted for payment between six and 12 months after the month of service, that does not meet any of the exceptions allowing billing after six months as specified in subdivisions (a) and (b), or the exception specified in subdivision (f), shall be reduced as follows:

(A) The amount otherwise payable by Medi-Cal shall be reduced by 25 percent for claims submitted during the seventh through the ninth month after the month of service.

(B) The amount otherwise payable by Medi-Cal shall be reduced by 50 percent for claims submitted during the 10th through the 12th month after the month of service.

(2) In no event shall the provider be reimbursed for claims submitted more than one year after the month of service.

(d) For the purposes of this section, identification of a patient as a Medi-Cal beneficiary shall mean presentation to the provider of the patient's Medi-Cal card.

(e) No further followup shall be required, after the provider receives acknowledgment of a claim inquiry from the fiscal intermediary, until the claim is paid or denied, except that this period shall not exceed one year from the date of acknowledgment. Within one year from the date of acknowledgment the next level of appeal shall be utilized by the provider.

(f) To the extent permitted by federal law, when a state of emergency has been declared by either the President of the United States or the Governor, the director, in order to ensure continued access to health care services, may remit payment for services without the submission of required documentation, to any provider in good standing under the Medi-Cal program who, due to destruction, loss, or inaccessibility of data as a result of the emergency situation, is unable to submit claims. Emergency payments may be made for a period of up to six months from the date of the emergency declaration. All requests for emergency payment shall include adequate justification for payment, as required by the director, and shall be paid based on the previous claims history of the requesting provider held by the department.

SEC. 2. Section 14125 of the Welfare and Institutions Code is amended to read:

14125. The purpose of this article is to establish provider reimbursement rates for incontinence medical supplies covered by the Medi-Cal program. Reimbursement for incontinence medical supplies shall consist of the weighted average of the negotiated contract prices within each product category , plus a markup fee equal to 40 percent of the resulting adjusted contract price.

SEC. 3. Section 14125.4 of the Welfare and Institutions Code is amended to read:

14125.4. (a) No later than January 1, 1994, the department shall establish utilization controls that limit expenditures for incontinence medical supplies per beneficiary to no more than one hundred sixty-five dollars ($165) per month. Incontinence creams and washes shall be excluded from this limitation. The expenditure limit established by this section may be adjusted in the annual Budget Act to reflect changes in wholesale prices. These utilization controls shall be published in provider bulletins.

(b) The department shall, by prior authorization, allow a beneficiary to exceed the utilization limits established by this section when justified to the department's satisfaction not later than January 1, 1994.

(c) Notwithstanding any other provision of law, no regulations shall be necessary to define the incontinence medical supplies subject to the reductions required in Section 14125.3, or to establish and implement the utilization controls required in this section.

CHAPTER 814

An act to amend Sections 19574.2, 19575, and 19584 of, and to add Section 18671.2 to, the Government Code, relating to state civil service.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 18671.2 is added to the Government Code, to read:

18671.2. (a) The total cost to the state of maintaining and operating the hearing office of the board shall be determined by the board, in advance or upon any other basis as it may determine, utilizing information from the state agencies for which services are provided by the hearing office.

(b) The board shall be reimbursed for the entire cost of hearings conducted by the hearing office pursuant to statutes administered by the board, or by interagency agreement. The board may bill the appropriate state agencies for the costs incurred in conducting hearings involving employees of those state agencies. All costs collected by the board pursuant to this section shall only be used for purposes of maintaining and operating the hearing office of the board.

SEC. 2. Section 19574.2 of the Government Code is amended to read:

19574.2. (a) Any party claiming that his or her request for discovery pursuant to Section 19574.1 has not been complied with may serve and file a petition to compel discovery with the Hearing Office of the State Personnel Board, naming as respondent the party refusing or failing to comply with Section 19574.1. The petition shall state facts showing that the respondent party failed or refused to comply with Section 19574.1, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under Section 19574.1, and the ground or grounds of respondent's refusal so far as known to petitioner.

(b) The petition shall be served upon respondent party and filed within 14 days after the respondent party first evidenced his or her failure or refusal to comply with Section 19574.1 or within 30 days after the request was made and the party has failed to reply to the request, whichever period is longer. However, no petition may be

filed within 15 days of the date set for commencement of the administrative hearing, except upon a petition and a determination by the administrative law judge of good cause. In determining good cause, the administrative law judge shall consider the necessity and reasons for the discovery, the diligence or lack of diligence of the moving party, whether the granting of the petition will delay the commencement of the administrative hearing on the date set, and the possible prejudice of the action to any party. The respondent shall have a right to file a written answer to the petition. Any answer shall be filed with the Hearing Office of the State Personnel Board and the petitioner within 15 days of service of the petition.

Unless otherwise stipulated by the parties and as provided by this section, the administrative law judge shall review the petition and any response filed by the respondent and issue a decision granting or denying the petition within 20 days after the filing of the petition. Nothing in this section shall preclude the administrative law judge from determining that an evidentiary hearing shall be conducted prior to the issuance of a decision on the petition. In the event that a hearing is ordered, the decision of the administrative law judge shall be issued within 20 days of the closing of the hearing.

A party aggrieved by the decision of the administrative law judge may, within 30 days of service of the decision, file a petition to compel discovery in the superior court for the county in which the administrative hearing will be held or in the county in which the headquarters of the appointing power is located. The petition shall be served on the respondent party.

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

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

(e) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under Section 19574.1, or is privileged against disclosure under Section 19574.1, the court may order lodged with it matters which are provided in subdivision (b) of Section 915 of the Evidence Code and shall examine the matters in accordance with the provisions thereof.

(f) The court shall decide the case on the matters examined by the court in camera, the papers filed by the parties, and such oral

argument and additional evidence as the court may allow.

(g) Unless otherwise stipulated by the parties, the court shall no later than 45 days after the filing of the petition file its order denying or granting the petition; provided, however, that the court may on its own motion for good cause extend the time an additional 45 days. The order of the court shall be in writing setting forth the matters or parts the petitioner is entitled to discover under Section 19574.1. A copy of the order shall forthwith be served by mail by the clerk upon the parties. Where the order grants the petition in whole or in part, the order shall not become effective until 10 days after the date the order is served by the clerk. Where the order denies relief to the petitioning party, the order shall be effective on the date it is served by the clerk.

(h) The order of the superior court shall be final and, except for this subdivision, shall not be subject to review by appeal. A party aggrieved by the order, or any part thereof, may within 30 days after the service of the superior court's order serve and file in the district court of appeal for the district in which the superior court is located, a petition for a writ of mandamus to compel the superior court to set aside, or otherwise modify, its order. Where a review is sought from an order granting discovery, the order of the trial court and the administrative proceeding shall be stayed upon the filing of the petition for writ of mandamus; provided, however, that the court of appeal may dissolve or modify the stay thereafter, if it is in the public interest to do so. Where the review is sought from a denial of discovery, neither the trial court's order nor the administrative proceeding shall be stayed by the court of appeal except upon a clear showing of probable error.

(i) Where the superior court finds that a party or his or her attorney, without substantial justification, failed or refused to comply with Section 19574.1, or, without substantial justification, filed a petition to compel discovery pursuant to this section, or, without substantial justification, failed to comply with any order of court made pursuant to this section, the court may award court costs and reasonable attorney fees to the opposing party. Nothing in this subdivision shall limit the power of the superior court to compel obedience to its orders by contempt proceedings.

SEC. 3. Section 19575 of the Government Code is amended to read:

19575. No later than 30 calendar days after service of the notice of adverse action, the employee may file with the board a written answer to the notice, which answer shall be deemed to be a denial of all of the allegations of the notice of adverse action not expressly admitted and a request for hearing or investigation as provided in this article. With the consent of the board or its authorized representative an amended answer may subsequently be filed. If the employee fails to answer within the time specified or after answer withdraws his or her appeal the adverse action taken by the appointing power shall be final. A copy of the employee's answer and

of any amended answer shall promptly be given by the board to the appointing power.

SEC. 4. Section 19584 of the Government Code is amended to read:

19584. Whenever the board revokes or modifies an adverse action and orders that the employee be returned to his or her position, it shall direct the payment of salary and all interest accrued thereto, and the reinstatement of all benefits that otherwise would have normally accrued. "Salary" shall include salary, as defined in Section 18000, salary adjustments and shift differential, and other special salary compensations, if sufficiently predictable. Benefits shall include, but shall not be limited to, retirement, medical, dental, and seniority benefits pursuant to memoranda of understanding for that classification of employee to the employee for that period of time as the board finds the adverse action was improperly in effect.

Salary shall not be authorized or paid for any portion of a period of adverse action that the employee was not ready, able, and willing to perform the duties of his or her position, whether the adverse action is valid or not or the causes on which it is based state facts sufficient to constitute cause for discipline.

From any such salary due there shall be deducted compensation that the employee earned, or might reasonably have earned, during any period commencing more than six months after the initial date of the suspension.

CHAPTER 815

An act to amend Section 43.7 of the Civil Code, to amend Section 13401.5 of the Corporations Code, and to amend Section 1157 of the Evidence Code, relating to acupuncture.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

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

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

the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after the reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of the committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, chiropractic, optometric, acupuncture, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, acupuncturists, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, acupuncturists, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, chiropractic, optometric, acupuncture, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, chiropractors, optometrists, acupuncturists, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if the professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after the reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, acupuncture, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, licensed marriage, family, and child counseling, licensed clinical social work, and engineering organizations having as members at least 25 percent of the eligible persons or licentiates in the geographic area served by the particular society. However, if the society has less than 100 members, it shall have as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

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

(c) This section does not affect the official immunity of an officer or employee of a public corporation.

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

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

(f) This section shall become operative on January 1, 1990.

SEC. 2. Section 13401.5 of the Corporations Code is amended to read:

13401.5. Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

(a) Medical corporation.

(1) Licensed doctors of podiatric medicine.

(2) Licensed psychologists.

(3) Registered nurses.

(4) Licensed optometrists.

(5) Licensed marriage, family, and child counselors.

(6) Licensed clinical social workers.

(7) Licensed physician assistants.

(8) Licensed chiropractors.
(b) Podiatric medical corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed chiropractors.
(c) Psychological corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed marriage, family, and child counselors.
(6) Licensed clinical social workers.
(7) Licensed chiropractors.
(d) Speech pathology corporation.
(1) Licensed audiologists.
(e) Audiology corporation.
(1) Licensed speech pathologists.
(f) Nursing corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Licensed optometrists.
(5) Licensed marriage, family, and child counselors.
(6) Licensed clinical social workers.
(7) Licensed physician assistants.
(8) Licensed chiropractors.
(g) Marriage, family, and child counseling corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed clinical social workers.
(4) Registered nurses.
(5) Licensed chiropractors.
(h) Licensed clinical social worker corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed marriage, family, and child counselors.
(4) Registered nurses.
(5) Licensed chiropractors.
(i) Physician assistants corporation.
(1) Licensed physicians and surgeons.
(2) Registered nurses.
(j) Optometric corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed chiropractors.

(k) Chiropractic corporation.
(1) Licensed physicians and surgeons.
(2) Licensed doctors of podiatric medicine.
(3) Licensed psychologists.
(4) Registered nurses.
(5) Licensed optometrists.
(6) Licensed marriage, family, and child counselors.
(7) Licensed clinical social workers.
(*l*) Acupuncture corporation.
(1) Licensed physicians and surgeons.
(2) Licensed podiatrists.
(3) Licensed psychologists.
(4) Licensed registered nurses.
(5) Licensed optometrists.
(6) Licensed marriage, family, and child counselors.
(7) Licensed clinical social workers.
(8) Licensed physician assistants.
(9) Licensed chiropractors.

SEC. 3. Section 1157 of the Evidence Code is amended to read:

1157. (a) Neither the proceedings nor the records of organized committees of medical, medical-dental, podiatric, registered dietitian, psychological, or veterinary staffs in hospitals, or of a peer review body, as defined in Section 805 of the Business and Professions Code, having the responsibility of evaluation and improvement of the quality of care rendered in the hospital, or for that peer review body, or medical or dental review or dental hygienist review or chiropractic review or podiatric review or registered dietitian review or veterinary review or acupuncturist review committees of local medical, dental, dental hygienist, podiatric, dietetic, veterinary, acupuncture, or chiropractic societies, or psychological review committees of state or local psychological associations or societies having the responsibility of evaluation and improvement of the quality of care, shall be subject to discovery.

(b) Except as hereinafter provided, no person in attendance at a meeting of any of those committees shall be required to testify as to what transpired at that meeting.

(c) The prohibition relating to discovery or testimony does not apply to the statements made by any person in attendance at a meeting of any of those committees who is a party to an action or proceeding the subject matter of which was reviewed at that meeting, or to any person requesting hospital staff privileges, or in any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

(d) The prohibitions in this section do not apply to medical, dental, dental hygienist, podiatric, dietetic, psychological, veterinary, acupuncture, or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any of those committees if any person serves upon the committee when his

or her own conduct or practice is being reviewed.

(e) The amendments made to this section by Chapter 1081 of the Statutes of 1983, or at the 1985 portion of the 1985–86 Regular Session of the Legislature, or at the 1990 portion of the 1989–90 Regular Session of the Legislature, do not exclude the discovery or use of relevant evidence in a criminal action.

CHAPTER 816

An act to amend Section 44234 of the Education Code, relating to teachers.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 44234 of the Education Code is amended to read:

44234. (a) There is in the State Treasury the Teacher Credentials Fund. All fees levied and collected by the commission shall be deposited in the Teacher Credentials Fund and shall not be transferred to any other fund.

(b) Notwithstanding any other law, if at the beginning of any fiscal year the commission has unencumbered funds in an amount which is in excess of its operating budget, plus funds required to implement statutory mandates and other changes to teacher credentials, plus a prudent reserve, which reserve shall not exceed 10 percent of the total amount that the commission is authorized to spend in that fiscal year, as determined by the Department of Finance, the department shall recommend a reduction in credential or other fees, whether fixed by statute or determined by this commission within limits fixed by statute, in an amount which will reduce any surplus funds of the commission.

(c) Nothing in this section shall preclude the implementation of multiyear mandates that require a reserve amount that is greater than 10 percent in one fiscal year.

CHAPTER 817

An act to amend Sections 1102 and 1102.6 of the Civil Code, relating to civil law.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1102 of the Civil Code is amended to read:

1102. (a) Except as provided in Section 1102.1, this article applies to any transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of real property, or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

(b) Any waiver of the requirements of this article is void as against public policy.

SEC. 2. Section 1102.6 of the Civil Code is amended to read:

1102.6. The disclosures required by this article pertaining to the property proposed to be transferred are set forth in, and shall be made on a copy of, the following disclosure form:

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE CITY OF _____, COUNTY OF _____, STATE OF CALIFORNIA, DESCRIBED AS _____ _____. THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 1102 OF THE CIVIL CODE AS OF _____, 19___. IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

I

COORDINATION WITH OTHER DISCLOSURE FORMS

This Real Estate Transfer Disclosure Statement is made pursuant to Section 1102 of the Civil Code. Other statutes require disclosures, depending upon the details of the particular real estate transaction (for example: special study zone and purchase-money liens on residential property).

Substituted Disclosures: The following disclosures have or will be made in connection with this real estate transfer, and are intended to satisfy the disclosure obligations on this form, where the subject matter is the same:

☐ Inspection reports completed pursuant to the contract of sale or receipt for deposit.

☐ Additional inspection reports or disclosures:

_____

_____

_____

SELLER'S INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

Seller__is __is not occupying the property.

A. The subject property has the items checked below (read across):

__Range	__Oven	__Microwave
__Dishwasher	__Trash Compactor	__Garbage Disposal
__Washer/Dryer Hookups	__Window Screens	__Rain Gutters
__Burglar Alarms	__Smoke Detector(s)	__Fire Alarm
__T.V. Antenna	__Satellite Dish	__Intercom
__Central Heating	__Central Air Cndtng.	__Evaporator Cooler(s)
__Wall/Window Air Cndtng.	__Sprinklers	__Public Sewer System
__Septic Tank	__Sump Pump	__Water Softener
__Patio/Decking	__Built-in Barbeque	__Gazebo
__Sauna	__Pool	__Spa__Hot Tub
__Security Gate(s)	__Automatic Garage Door Opener(s) *	__Number Remote Controls
Garage:__Attached	__Not Attached	__Carport
Pool/Spa Heater: __Gas	__Solar	__Electric
Water Heater: __Gas		__Private Utility or Other_____
Water Supply: __City	__Well	
Gas Supply: __Utility	__Bottled	

Exhaust Fan(s) in _____ 220 Volt Wiring in _____ Fireplace(s) in_____
Gas Starter _____ Roof(s): Type: _____ Age: _____ (approx.)
Other:_____

Are there, to the best of your (Seller's) knowledge, any of the above that are not in operating condition? __Yes __No. If yes, then describe.

(Attach additional sheets if necessary):_____

_____

_____

_____

B. Are you (Seller) aware of any significant defects/malfunctions in any of the following? __Yes __No. If yes, check appropriate space(s) below.

__Interior Walls __Ceilings __Floors __Exterior Walls __Insulation __Roof(s) __Windows __Doors __Foundation __Slab(s) __Driveways __Sidewalks __Walls/Fences __Electrical Systems __Plumbing/Sewers/Septics Other Structural Components (Describe:_____

_____)

If any of the above is checked, explain. (Attach additional sheets if necessary):_____

_____

_____

_____

* This garage door opener may not be in compliance with the safety standards relating to automatic reversing devices as set forth in Chapter 12.5 (commencing with Section 19890) of Part 3 of Division 13 of the Health and Safety Code.

C. Are you (Seller) aware of any of the following:

1. Substances, materials, or products which may be an environmental hazard such as, but not limited to, asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, and contaminated soil or water on the subject property ..... __Yes __No
2. Features of the property shared in common with adjoining landowners, such as walls, fences, and driveways, whose use or responsibility for maintenance may have an effect on the subject property ..... __Yes __No
3. Any encroachments, easements or similar matters that may affect your interest in the subject property ..... __Yes __No
4. Room additions, structural modifications, or other alterations or repairs made without necessary permits ..... __Yes __No
5. Room additions, structural modifications, or other alterations or repairs not in compliance with building codes ..... __Yes __No
6. Fill (compacted or otherwise) on the property or any portion thereof ..... __Yes __No
7. Any settling from any cause, or slippage, sliding, or other soil problems ..... __Yes __No
8. Flooding, drainage or grading problems ..... __Yes __No
9. Major damage to the property or any of the structures from fire, earthquake, floods, or landslides ..... __Yes __No
10. Any zoning violations, nonconforming uses, violations of "setback" requirements ..... __Yes __No
11. Neighborhood noise problems or other nuisances ..... __Yes __No
12. CC&R's or other deed restrictions or obligations ..... __Yes __No
13. Homeowners' Association which has any authority over the subject property ..... __Yes __No
14. Any "common area" (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others) ..... __Yes __No
15. Any notices of abatement or citations against the property ..... __Yes __No
16. Any lawsuits by or against the seller threatening to or affecting this real property, including any lawsuits alleging a defect or deficiency in this real property or "common areas" (facilities such as pools, tennis courts, walkways, or other areas co-owned in undivided interest with others) ..... __Yes __No

If the answer to any of these is yes, explain. (Attach additional sheets if necessary.): _____

_____

_____

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller_____ Date_____

Seller_____ Date_____

III

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the Seller is represented by an agent in this transaction.)

THE UNDERSIGNED, BASED ON THE ABOVE INQUIRY OF THE SELLER(S) AS TO THE CONDITION OF THE PROPERTY AND BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY IN CONJUNCTION WITH THAT INQUIRY, STATES THE FOLLOWING:

☐ Agent notes no items for disclosure.
☐ Agent notes the following items:

_____
_____
_____
_____

Agent (Broker Representing Seller)_____ By_____ Date_____
(Please Print) (Associate Licensee or Broker-Signature)

IV

AGENT'S INSPECTION DISCLOSURE

(To be completed only if the agent who has obtained the offer is other than the agent above.)

THE UNDERSIGNED, BASED ON A REASONABLY COMPETENT AND DILIGENT VISUAL INSPECTION OF THE ACCESSIBLE AREAS OF THE PROPERTY, STATES THE FOLLOWING:

☐ Agent notes no items for disclosure.
☐ Agent notes the following items:

_____
_____
_____
_____

Agent (Broker obtaining the Offer)_____ By_____ Date_____
(Please Print) (Associate Licensee or Broker-Signature)

V

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/ DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller_____ Date_____ Buyer_____ Date_____
Seller_____ Date_____ Buyer_____ Date_____

Agent (Broker
Representing Seller)_____ By_____ Date_____
(Associate Licensee
or Broker-Signature)

Agent (Broker
obtaining the Offer)_____ By_____ Date_____
(Associate Licensee
or Broker-Signature)

SECTION 1102.2 OF THE CIVIL CODE PROVIDES A BUYER WITH THE RIGHT TO RESCIND A PURCHASE CONTRACT FOR AT LEAST THREE DAYS AFTER THE DELIVERY OF THIS DISCLOSURE IF DELIVERY OCCURS AFTER THE SIGNING OF AN OFFER TO PURCHASE. IF YOU WISH TO RESCIND THE CONTRACT, YOU MUST ACT WITHIN THE PRESCRIBED PERIOD.

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

SEC. 3. It is the intent of the Legislature to clarify and facilitate the use of the real estate disclosure statement specified in Section 1102.6 of the Civil Code. The Legislature does not intend to adversely affect the existing obligations of the parties to a real estate contract, including their agents, to disclose any fact, including the physical conditions of the property and previously received reports of physical inspections, materially affecting the value and desirability of the property.

It is also the intent of the Legislature that the delivery of a real estate transfer disclosure statement may not be waived in an "as is" sale, as was held in Loughrin v. Superior Court (1993), 15 Cal. App. 4th 1188.

CHAPTER 818

An act to amend Section 29622 of, and to add Section 18522 to, the Elections Code, relating to elections.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 18522 is added to the Elections Code, to read:

18522. Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) Induce any voter to:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) Remain away from the polls at an election.

(b) Reward any voter for having:

(1) Refrained from voting.

(2) Voted for any particular person or measure.

(3) Refrained from voting for any particular person or measure.

(4) Remained away from the polls at an election.

Any person or candidate violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

SEC. 2. Section 29622 of the Elections Code is amended to read:

29622. Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) Induce any voter to:
(1) Refrain from voting at any election.
(2) Vote or refrain from voting at an election for any particular person or measure.
(3) Remain away from the polls at an election.
(b) Reward any voter for having:
(1) Refrained from voting.
(2) Voted for any particular person or measure.
(3) Refrained from voting for any particular person or measure.
(4) Remained away from the polls at an election.

Any person or candidate violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

SEC. 3. Section 1 of this bill shall become operative only if this bill and SB 1547 are both chaptered, in which case Section 2 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 819

An act to amend Section 15035 of, and to add Section 15076.7 to, the Unemployment Insurance Code, relating to employment.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 15035 of the Unemployment Insurance Code is amended to read:

15035. To promote integration of work force preparation programs at the state level, to further cooperation between government and the private sector in meeting California employers' needs for well-trained workers and California workers' needs for good jobs, to provide oversight of programs operated pursuant to the division, and to meet federal requirements of Section 122 of Part B of Title I of the Job Training Partnership Act of 1982, the State Job Training Coordinating Council is established.

SEC. 2. Section 15076.7 is added to the Unemployment Insurance Code, to read:

15076.7. The State Job Training Coordinating Council, based upon input from employment, training, and education providers, including, but not limited to, the Employment Development Department, the State Department of Education, the California Community Colleges, the California State University, the University of California, and the Trade and Commerce Agency, shall submit to the Legislature and the Governor on or before April 1, 1995, all of the following:

(a) An assessment of existing state and federal employment and training programs, including, but not limited to, goals and objectives, funding sources, funding levels, numbers served, and outcome measurements, and recommendations on the development of performance-based accountability for these programs.

(b) Recommendations to create an integrated employment and training system in California, including, but not limited to, recommendations on coordinated planning, eligibility criteria, service delivery, and advisory bodies.

(c) Recommendations on strategies to link work force preparation to the current and future economic needs of California.

(d) Recommendations on the appropriate organizational structure for a statewide work force preparation council, including, but not limited to, recommendations on the scope, mission, governance, and composition of the council.

CHAPTER 820

An act to amend Sections 76 and 602.1 of, and to add Section 12021.3 to, the Penal Code, relating to threats.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 76 of the Penal Code is amended to read:

76. (a) Every person who knowingly and willingly threatens the life of, or threatens serious bodily harm to, any elected public official, county public defender, county clerk, exempt appointee of the Governor, or judge, or the staff or immediate family of any elected public official, county public defender, county clerk, exempt appointee of the Governor, or judge, with the specific intent that the statement is to be taken as a threat, and the apparent ability to carry out that threat by any means, is guilty of a public offense, punishable as follows:

(1) Upon a first conviction, the offense is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both that fine and imprisonment.

(2) If the person has been convicted previously of violating this section, the previous conviction shall be charged in the accusatory pleading, and if the previous conviction is found to be true by the jury upon a jury trial, or by the court upon a court trial, or is admitted by the defendant, the offense is punishable by imprisonment in the state prison.

(b) (1) Any law enforcement agency which has knowledge of a violation of this section shall immediately report that information to the California Department of Justice.

(2) In addition to the reporting requirement imposed by paragraph (1), if a violation of this section occurs that involves a constitutional officer of the state, a Member of the Legislature, or a member of the judiciary, the law enforcement agency which has knowledge of the violation shall immediately report that information to the California State Police.

(c) For purposes of this section, the following definitions shall apply:

(1) "Apparent ability to carry out that threat" includes the ability to fulfill the threat at some future date when the person making the threat is an incarcerated prisoner with a stated release date.

(2) "Serious bodily harm" includes serious physical injury or serious traumatic condition.

(3) "Immediate family" means a spouse, parent, or child, or anyone who has regularly resided in the household for the past six months.

(4) "Staff of a judge" means court officers and employees.

(5) "Threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family.

(d) As for threats against staff, the threat must relate directly to the official duties of the staff of the elected public official, county public defender, county clerk, exempt appointee of the Governor, or judge in order to constitute a public offense under this section.

SEC. 2. Section 76 of the Penal Code is amended to read:

76. (a) Every person who knowingly and willingly threatens the life of, or threatens serious bodily harm to, any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, prosecuting attorney, or peace officer, or the staff or immediate family of any elected public official, county public defender, county clerk, exempt appointee of the Governor, judge, prosecuting attorney, or peace officer, with the specific intent that the statement is to be taken as a threat, and the apparent ability to carry out that threat by any means, is guilty of a public offense, punishable as follows:

(1) Upon a first conviction, the offense is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the

state prison, or in a county jail not exceeding one year, or by both that fine and imprisonment.

(2) If the person has been convicted previously of violating this section, the previous conviction shall be charged in the accusatory pleading, and if the previous conviction is found to be true by the jury upon a jury trial, or by the court upon a court trial, or is admitted by the defendant, the offense is punishable by imprisonment in the state prison.

(b) (1) Any law enforcement agency that has knowledge of a threat to any elected public official, exempt appointee of the Governor, judge, or the immediate family of the official, appointee, or judge shall report that information to the Department of Justice. A threat to any county public defender, county clerk, prosecuting attorney, peace officer, or the immediate family of the attorney, clerk, or officer shall be reported to local law enforcement authorities.

(2) In addition to the reporting requirement imposed by paragraph (1), if a violation of this section occurs that involves a constitutional officer of the state, a Member of the Legislature, or a member of the judiciary, the law enforcement agency that has knowledge of the violation shall immediately report that information to the California State Police.

(c) For purposes of this section, the following definitions shall apply:

(1) "Apparent ability to carry out that threat" includes the ability to fulfill the threat at some future date when the person making the threat is an incarcerated prisoner with a stated release date.

(2) "Serious bodily harm" includes serious physical injury or serious traumatic condition.

(3) "Immediate family" means a spouse, parent, or child, or anyone who has regularly resided in the household for the past six months.

(4) "Staff of a judge" means court officers and employees.

(5) "Threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family.

(6) "Peace officer" means any person who is described in Section 830.1, 830.2, or 830.3.

(d) As for threats against staff, the threat must relate directly to the official duties of the staff of the elected public official, county public defender, county clerk, exempt appointee of the Governor, or judge in order to constitute a public offense under this section.

(e) A threat must relate directly to the official duties of a prosecuting attorney or peace officer in order to constitute a public offense under this section.

SEC. 3. Section 602.1 of the Penal Code is amended to read:

602.1. (a) Any person who intentionally interferes with any lawful business or occupation carried on by the owner or agent of a business establishment open to the public, by obstructing or intimidating those attempting to carry on business, or their customers, and who refuses to leave the premises of the business establishment after being requested to leave by the owner or the owner's agent, or by a peace officer acting at the request of the owner or owner's agent, is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to 90 days, or by a fine of up to four hundred dollars ($400), or by both that imprisonment and fine.

(b) Any person who intentionally interferes with any lawful business carried on by the employees of a public agency open to the public, by obstructing or intimidating those attempting to carry on business, or those persons there to transact business with the public agency, and who refuses to leave the premises of the public agency after being requested to leave by the office manager or a supervisor of the public agency, or by a peace officer acting at the request of the office manager or a supervisor of the public agency, is guilty of a misdemeanor, punishable by imprisonment in a county jail for up to 90 days, or by a fine of up to four hundred dollars ($400), or by both that imprisonment and fine.

(c) This section shall not apply to any of the following persons:

(1) Any person engaged in lawful labor union activities that are permitted to be carried out on the property by state or federal law.

(2) Any person on the premises who is engaging in activities protected by the California Constitution or the United States Constitution.

(d) Nothing in this section shall be deemed to supersede the application of any other law.

SEC. 4. Section 12021.3 is added to the Penal Code, to read:

12021.3. Except as provided in subdivision (a) of Section 12021 or paragraph (2) of subdivision (c) of Section 12021, any person who has been convicted of a misdemeanor violation of Section 76 and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in paragraph (3) of subdivision (c) of Section 12021.

SEC. 5. Section 2 of this bill incorporates amendments to Section 76 of the Penal Code proposed by both this bill and AB 136 of the 1993–94 First Extraordinary Session of the Legislature. It shall only become operative if (1) both bills are enacted and become effective, (2) each bill amends Section 76 of the Penal Code, and (3) this bill is enacted after AB 136. In which case, one of the following

alternatives shall be applicable:

(A) If this bill becomes operative before AB 136, Section 1 of this bill shall be operative until the operative date of AB 136, at which time Section 2 of this bill shall become operative.

(B) If this bill becomes operative after AB 136, Section 76 of the Penal Code, as amended by AB 136, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 821

An act to amend Sections 69893.5, 74131, 74134, 74135.1, 74191.7, 77203.5, and 77205 of, and to add Sections 74135 and 77205.3 to, the Government Code, relating to courts.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 69893.5 of the Government Code is amended to read:

69893.5. (a) In each county with a population of 480,000 and not more than 503,000, as determined by the 1960 Federal Census, the superior court may establish such titles as are required and, with the approval of the board of supervisors, may appoint and employ a court administrator, probate file examiner, master calendar clerk, legal secretaries, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon it and its members. Rates of compensation of all officers, assistants, and other employees may be established and adjusted by the board of supervisors.

(b) Notwithstanding any other provision of law, juvenile court referees appointed pursuant to Section 247 of the Welfare and Institutions Code and superior court commissioners in this county shall receive a salary equal to 85 percent of the annual salary for a superior court judge and shall earn vacation credit at the rate of 6.5

hours for each biweekly pay period of full-time service, except that a juvenile court referee appointed by the court prior to August 28, 1990, and who has been employed by the county since August 5, 1974, at the time of the appointment shall be entitled to earn vacation credit at the rate of 7.7 hours for each biweekly pay period of full-time service.

(c) The presiding judge of the superior and municipal courts may authorize a court commissioner and juvenile court referees to exercise all the powers and perform all the duties authorized by law to be performed by a commissioner of the superior court, a commissioner of the municipal court appointed pursuant to Section 72190, and a referee of the juvenile court appointed pursuant to Section 247 of the Welfare and Institutions Code.

SEC. 2. Section 74131 of the Government Code, as amended by Section 3 of Chapter 1032 of the Statutes of 1992, is amended to read:

74131. (a) There are nine judges in the Western Riverside County Judicial District, which shall include the City of Riverside and the Cities of Corona, Norco, and Moreno Valley.

(b) There are seven judges in the Desert Judicial District, which shall include the Cities of Palm Springs, Indio, and Blythe.

(c) There are three judges in the Mt. San Jacinto Judicial District, which shall include the Cities of Hemet, San Jacinto, Beaumont, and Banning. However, if the Riverside County Board of Supervisors finds there are sufficient funds for an additional judge for the Mt. San Jacinto Judicial District and adopts a resolution to that effect, there shall be four judges in the Mt. San Jacinto Judicial District.

(d) There are two judges in the Three Lakes Judicial District.

SEC. 3. Section 74134 of the Government Code is amended to read:

74134. In the Western Riverside County Judicial District, the salary of the clerk/administrator shall be on range 417 and the clerk/administrator may appoint:

(a) One accounting technician on range 245.
(b) One assistant clerk/administrator on range 358.
(c) One assistant clerk/administrator on range 323.
(d) One administrative services officer on range 342.
(e) Forty-seven judicial office assistants on range 212.
(f) Seven judicial services supervisors on range 272.
(g) Twenty-two judicial courtroom assistants on range 253.
(h) One judicial information systems administrator on range 350.
(i) One executive secretary I on range 265.
(j) Five senior accounting clerks on range 215.
(k) One senior accounting technician on range 280.
(*l*) Nine senior judicial office assistants on range 233.
(m) One stock clerk on range 189.
(n) One judicial secretary on range 265.
(o) One municipal court operations manager on range 335.
(p) One senior court reporter on range 366.
(q) One computer operator II on range 221.

(r) Five court reporters at one thousand nine hundred fifty-nine dollars and twenty cents ($1,959.20) biweekly.

(s) One departmental aide on range 129.

(t) One programmer/analyst IV on range 342.

(u) One senior judicial courtroom assistant on range 268.

(v) One staff analyst I on range 277.

SEC. 4. Section 74135 is added to the Government Code, to read:

74135. The board of supervisors may provide that municipal court commissioners shall receive the same compensation as superior court commissioners while serving on assignment with the superior court.

SEC. 5. Section 74135.1 of the Government Code, as amended by Section 5.5 of Chapter 1032 of the Statutes of 1992, is amended to read:

74135.1. By majority vote, the judges may appoint three court commissioners for the Western Riverside County Judicial District. However, when the board of supervisors finds there are sufficient funds for a fourth commissioner and adopts a resolution to that effect, there shall be four court commissioners; provided, that if the Legislature authorizes one additional judge for the district and the board of supervisors finds there are sufficient funds for that additional judge and adopts a resolution to that effect, following the appointment or election of the additional judge, there shall be no more than three court commissioners in the Western Riverside County Judicial District.

The court commissioners shall meet the qualifications and have powers and duties specified in Sections 72190 and 72190.1 of this code, and Section 259 of the Code of Civil Procedure. Any commissioner so appointed shall also have the power and duties of a traffic referee, as provided in Article 9 (commencing with Section 72400) of Chapter 8 of Title 8. The salary of a commissioner for all duties performed pursuant to this section shall be equal to 75, 80, or 85 percent of the salary of a judge of the municipal court, as determined by the court.

The additional commissioner position authorized by amendments to this section enacted during the 1990 portion of the 1989–90 Regular Session shall not be counted in the calculation of trial court funding pursuant to Section 77202, and the salary for this position shall not be considered as a part of court operations for Riverside County for purposes of Sections 77003 and 77204.

SEC. 6. Section 74191.7 of the Government Code is amended to read:

74191.7. (a) The judges of the Sacramento Municipal Court District shall appoint four and one-half commissioners as the business of the court requires. The commissioners shall possess the same qualifications as the law requires of a judge of the court. These appointments shall be pursuant to Section 72190 and the commissioners shall receive a salary equal to 85 percent of the annual salary for a court judge.

(b) Notwithstanding any other provision of law, commissioners shall earn vacation credit at the rate of 6.5 hours for each biweekly pay period of full-time service, except as follows: (1) any commissioner appointed by the court prior to July 16, 1979, shall be entitled to earn vacation credit at the rate of 7.7 hours for each biweekly pay period of full-time service and (2) any commissioner appointed by the court after July 16, 1979, and prior to February 12, 1981, shall be entitled to earn vacation credit for each biweekly pay period of full-time service, and commencing January 22, 1995, this rate shall increase to 7.4 hours for each biweekly pay period of full-time service.

(c) The presiding judge of the superior and municipal courts may authorize a court commissioner to exercise all the powers and perform all the duties authorized by law to be performed by a commissioner of the superior court and a referee of the juvenile court appointed pursuant to Section 247 of the Welfare and Institutions Code.

SEC. 7. Section 77203.5 of the Government Code is amended to read:

77203.5. (a) For the purpose of funding trial court operations, each board of supervisors shall establish in the county treasury a Trial Court Operations Fund, which will operate as a special revenue fund. All funds appropriated in the Budget Act and allocated and reallocated by the Trial Court Budget Commission created pursuant to Section 68502.5 shall be deposited into the fund.

(b) The moneys of the Trial Court Operations Fund shall be payable only for purposes set forth pursuant to Sections 77003 and 77006.5. The presiding judge or his or her designee, in consultation with the county executive/administrator, shall authorize the expenditures from this fund, consistent with the trial court's budget, as recommended by the Trial Court Budget Commission and approved by the Judicial Council. All state allocations deposited into this fund shall be exclusively dedicated to offset the costs identified in the approved trial court budget. The purpose of this requirement is to produce a reduction in the net county costs of trial courts.

(c) Interest received by a county from the investment of money in its Trial Court Operations Fund shall be deposited in the fund and shall be used for trial court operations purposes.

(d) Pursuant to Section 77205, the Controller, at the request of the Legislature or Judicial Council, may perform financial and fiscal compliance audits of this fund.

SEC. 8. Section 77205 of the Government Code is amended to read:

77205. (a) The Judicial Council shall adopt appropriate rules for budget submission, budget management, and reporting of revenues and expenditures by each court. The Controller, in consultation with the Judicial Council, shall maintain appropriate regulations for recordkeeping and accounting by the county and the courts, in order to determine all moneys collected by the county and the courts,

including filing fees, fines, forfeitures, and penalties, and all revenues and expenditures relating to court operations.

(b) Regulations, rules, and reporting requirements adopted pursuant to this chapter shall be exempt from review and approval or other processing by the Office of Administrative Law as provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(c) The Controller, at the request of the Legislature or the Judicial Council, may perform and publish financial and fiscal compliance audits of the reports of court revenues and expenditures submitted by the counties. The Controller shall report the results of these audits to the Legislature.

(d) The Judicial Council shall provide for the transmission of summary information concerning court revenues and expenditures to the Controller.

SEC. 9. Section 77205.3 is added to the Government Code, to read:

77205.3. Amounts appropriated in the annual Budget Act for assigned judges shall be transferred to the Judicial Council on a monthly basis. The Judicial Council shall certify the amount expended for judicial assignment purposes monthly, and the Controller shall transfer to the Judicial Council the amount certified. The amounts so transferred by the Controller shall be credited to the appropriation available to the Judicial Council in augmentation of the Budget Act.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 822

An act to amend Section 14085.5 of the Welfare and Institutions Code, relating to health services.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 14085.5 of the Welfare and Institutions Code is amended to read:

14085.5. (a) Each disproportionate share hospital contracting to provide services under this article or contracting with a county organized health system, and which has or would have met the state criteria developed pursuant to the federal medicaid requirements regarding disproportionate hospitals for the three most recent years, may, in addition to the rate of payment provided for in the contract entered into under this article, receive supplemental reimbursement to the extent provided for in this section.

(b) (1) (A) A hospital qualifying pursuant to subdivision (a) shall submit documentation regarding debt service on revenue bonds used for financing the construction, renovation, or replacement of hospital facilities, including buildings and fixed equipment.

(B) Qualified hospitals may submit debt service instruments to the department and to the commission regarding debt issued for new capital projects.

(C) Eligible projects shall include those new capital projects funded by new debt for which final plans have been submitted to the Office of the State Architect and the Office of Statewide Health Planning and Development after September 1, 1988, and prior to June 30, 1994, except that projects submitted between September 1, 1988, and June 30, 1989, shall be eligible only if the submitting hospital had all of the following additional characteristics during the 1989 calendar year:

(i) No less than 400 general acute care licensed beds.

(ii) An average Medi-Cal patient census of not less than 30 percent of the total patient days.

(iii) No less than 50,000 emergency department visits.

(iv) An existing basic emergency department, obstetrical services, and a neonatal intensive care unit.

(D) The department shall confirm in writing hospital and project eligibility for partial financing under this section.

(E) Department advisory letters, conditioned on hospital and project conformity to plans, may be requested by hospitals prior to final plan submission.

(F) Capital projects receiving partial financing under this section shall finance the upgrading or construction of buildings and

equipment to a level required by currently accepted medical practice standards, including projects designed to correct Joint Commission on Accreditation of Hospitals and Health Systems fire and life safety, seismic, or other related regulatory standards.

(2) Projects may also expand service capacity as needed to maintain current or reasonably foreseeable necessary bed capacity to meet the needs of Medi-Cal beneficiaries after giving consideration to bed capacity needed for other patients, including unsponsored patients.

(3) (A) Debt service shall only be paid for projects, or for that portion of projects, that are available and accessible to patients treated under this article or by successor programs.

(B) Each project shall cost at least five million dollars ($5,000,000) or, if less than five million dollars ($5,000,000), the project shall be necessary for retention of federal and state licensing and certification and for meeting fire and life safety, seismic, or other related regulatory standards.

(4) Supplemental reimbursement payments shall commence no later than 30 days after receipt of the certificate of occupancy by the hospital.

(5) (A) The state shall pledge to, and agree with, the holders of any revenue bonds issued to finance projects qualifying under this section that until debt service on the revenue bonds is fully paid, or until the supplemental rate is no longer required as provided by this section, the state will not limit or alter the rights vested in the hospital to receive supplemental reimbursement pursuant to this section.

(B) The state shall pledge, and the hospital shall, as a condition of encumbering supplemental reimbursement payments received pursuant to this section, pledge that supplemental reimbursement payments shall be used for the payment of debt service on the revenue bonds. The hospital shall include its pledge and the agreement with the state in any agreement with the holders of the revenue bonds.

(c) The hospital's supplemental reimbursement for a project qualifying pursuant to subdivisions (a) and (b) shall be calculated as follows:

(1) For any fiscal year for which the hospital is eligible to receive reimbursement, the hospital shall report to the department the amount of debt service on the revenue bonds issued to finance the project.

(2) (A) The department shall use the medicaid inpatient utilization rate as determined pursuant to Section 4112 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) to determine the ratio of the hospital's total paid Medi-Cal patient days to total patient days.

(B) (i) Notwithstanding any other provision of law, in determining the hospital's medicaid inpatient utilization rate for the purposes of this section, the department shall include in both the

numerator and denominator all Medi-Cal inpatient days of care provided by the hospital after December 31, 1994, to Medi-Cal beneficiaries who are enrolled in prepaid health plans contracting with the department. Where reliable data regarding those days are available from Medi-Cal prepaid health plans contracting with participating hospitals for services rendered prior to January 1, 1995, that data may be used by the department in the calculations.

(ii) For purposes of this section, Medi-Cal prepaid health plan programs, and the days relating thereto, shall include, but not be limited to, the programs listed in paragraph (1) of subdivision (b) of Section 14105.985, Section 14089, and any prepaid programs implemented under Section 14087.3, including the two-plan model described in the report issued on March 31, 1993, by the department, entitled "The State Department of Health Services' Plan for Expanding Medi-Cal Managed Care: Protecting Vulnerable Populations."

(3) (A) (i) The supplemental Medi-Cal reimbursement to the hospital for each fiscal year shall equal the amount determined annually in paragraph (1) multiplied by the percentage figure determined in paragraph (2). In no instance shall the percentage figure determined pursuant to the ratio derived under paragraph (2) be decreased by more than 10 percent of the initial ratio determined pursuant to paragraph (2) prior to the retirement of the debt.

(ii) Hospitals whose Medi-Cal ratio falls below 90 percent of the initial level established at the point of final plan submission shall at least maintain the volume of Medi-Cal utilization which was recorded at the time of final plan submission unless forces beyond the hospital's control have decreased the absolute volume of care.

(B) (i) In no instance shall the total amount of reimbursement received under this section combined with that received from all other sources dedicated exclusively to debt service exceed 100 percent of the debt service over the life of the loan.

(ii) A hospital qualifying for and receiving supplemental Medi-Cal reimbursement shall continue to receive the reimbursement until the qualifying loan is paid off, or the hospital is terminated as a Medi-Cal selective contractor and the hospital does not contract with a county organized health system.

(iii) It is the intent of the Legislature that the state and the qualifying hospital shall negotiate in good faith for rates sufficient to ensure continued hospital participation in the program and to ensure adequate access to services for Medi-Cal beneficiaries.

(iv) The state shall not terminate a contract with a qualified provider for the purpose of terminating the capital supplement.

(v) If negotiations fail to permit continuation of a contract of a hospital qualifying for the supplemental Medi-Cal reimbursement, the supplemental Medi-Cal reimbursement shall cease as of the date of discontinuance of the selective provider contract.

(4) In order to ensure provision of qualified supplemental payments to disproportionate share hospitals contracting with

county organized health systems, the department shall make the qualified supplemental payments directly to these hospitals.

(5) Funding for these supplemental payments shall be separately appropriated as a line item in the Budget Act for each fiscal year for any project for which a request for payment is received after April 1 of each fiscal year. The department shall request a deficiency appropriation if funds for the payment are not appropriated in the Budget Act.

(6) The department shall provide the Department of Finance, the Legislative Analyst, and the Joint Legislative Budget Committee with its estimate of the budget year costs of the supplemental reimbursement program, on January 10 and May 15 of each year.

(7) (A) Paragraphs (1) to (4), inclusive, shall be incorporated into an amendment to any contract entered into by a hospital pursuant to this article.

(B) (i) Any contract amendment required by paragraph (A) shall include a payment methodology based on inpatient hospital services rendered to Medi-Cal patients, either on a per diem basis, a per-discharge basis, or any other federally permissible basis, and which is consistent with the hospital's Medi-Cal contract.

(ii) The payment methodology specified in clause (i) shall ensure that the hospital, on an annual basis, receives the amount of supplemental reimbursement calculated pursuant to paragraph (3), excluding only the federal portion of costs which have been determined by the federal government not to be allowable under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code).

(iii) The payment methodology specified in clause (i) shall contain a retrospective adjustment mechanism to ensure that, regardless of the payment methodology, the department shall pay the hospital the full amount owed to the hospital for the year, as determined pursuant to this section.

(8) In negotiating contracts with hospitals receiving payments under this section, the commission shall take appropriate steps to ensure the duplicate payments are not made to the hospital for the debt service costs relating to the eligible project.

(d) All reimbursement received by a hospital pursuant to this section shall be placed in a special account, the funds in which shall be used exclusively for the payment of debt service on the revenue bonds issued to finance the project.

(e) If contracting under this section is superseded by other arrangements for payment of inpatient hospital services, the successor program shall include separate reimbursement, as determined pursuant to paragraph (3) of subdivision (c).

(f) (1) For purposes of this section, "revenue bonds" are defined as that term is defined in subdivision (c) of Section 15459 of the Government Code, and shall also include general obligation bonds issued by or on behalf of eligible hospitals for projects of more than

five million dollars ($5,000,000).

(2) (A) The aggregate principal amount of general obligation bonds to be issued as revenue bonds under this subdivision for the anticipated allowable portion of projects shall not, in any fiscal year, exceed a statewide amount established in the Medi-Cal estimates submitted to the fiscal committees of the Legislature pursuant to Section 14100.5, or as otherwise statutorily determined by the Legislature.

(B) In preparing Medi-Cal estimates, the department shall consider, but need not include, all actual and anticipated projects.

(g) (1) The department shall promptly seek any necessary federal approvals for the implementation of this section, and, if necessary to obtain federal approval, the department may, for federal purposes, limit the program to those costs which are allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code), subject to paragraph (2).

(2) The department shall continue to be responsible for the reimbursement of eligible providers from state funds for the amount of supplemental reimbursement pursuant to paragraph (3) of subdivision (c), excluding only the federal portion of costs which have been determined by the federal government not to be allowable under Title XIX of the federal Social Security Act.

(h) (1) A hospital receiving supplemental reimbursement pursuant to this section shall be liable for any reduced federal financial participation resulting from the implementation of this section.

(2) The department shall submit claims for federal financial participation for all elements of the supplemental reimbursements which are allowable expenditures under federal law.

(3) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures which are allowable under federal law.

(4) (A) The department may require that hospitals receiving supplemental reimbursement submit data necessary for the department to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation.

(B) Unless otherwise permitted by federal law, the total statewide payment under the selective provider contracting program, in the aggregate on an annual basis, shall not exceed an amount that would otherwise have been paid under the Medi-Cal program on a statewide basis for the same services, in the aggregate on an annual basis, if the contracting program were not implemented.

CHAPTER 823

An act to amend Section 10815 of the Welfare and Institutions Code, relating to child support, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 10815 of the Welfare and Institutions Code is amended to read:

10815. (a) The department shall ensure the efficient, effective, and equitable administration of public assistance programs by implementing, in accordance with this chapter, a statewide automated welfare system based upon state-mandated standards for the following public assistance programs: Aid to Families with Dependent Children-unemployed parents, Aid to Families with Dependent Children-family group, Aid to Families with Dependent Children-foster care, food stamps, Medi-Cal eligibility, aid for adoption of children, special adult programs, and, to the extent feasible, social services programs.

(b) In addition, for the child support enforcement program, the department shall submit an advance automated planning document to the Secretary of Health and Human Services on or before October 1, 1990, that does all of the following:

(1) Meets all of the requirements for a statewide automated system specified in Title IV-D of the federal Social Security Act (Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code).

(2) Interfaces with the system or systems developed for public assistance programs.

(3) Operates in all political subdivisions, except Los Angeles County. Los Angeles County shall develop and implement an automated system that interfaces with the statewide automated system.

(c) (1) The department shall ensure that the Statewide Automated Child Support System (SACSS) is operational in all counties, except Los Angeles County, by October 1, 1995. The system used by Los Angeles County shall interface with the statewide system, and all other counties shall participate in the statewide system.

(2) The requirement for county participation in SACSS shall be incorporated in the Plans of Cooperation with the department, as defined in paragraph (6) of subdivision (f).

(3) The requirement that the Los Angeles ACSES Replacement System (ARS), as defined in paragraphs (1) and (2) of subdivision (f), interface with SACSS shall be incorporated in the Los Angeles

Plan of Cooperation with the department.

(d) (1) The department shall continue to work with counties when changes are proposed to SACSS.

(2) To the extent enhanced federal funding is approved for development and implementation of the statewide system, the state shall pay 100 percent of the nonfederal share of costs for those development and implementation costs incurred prior to October 1, 1995, including county staff costs related to development and implementation of the statewide system. The nonfederal share of county facility modification or acquisition and all costs related to the purchase of computer hardware, including delivery and installation costs, shall not be paid by the state. This paragraph does not apply to the County of Los Angeles.

(3) (A) Notwithstanding subdivisions (a) and (b) of Section 15200.6, the department shall loan to the County of Los Angeles, from funds authorized by subparagraph (A) of paragraph (2) of subdivision (c) of Section 15200.6, an amount not to exceed three million five hundred fifty-seven thousand dollars ($3,557,000) in the 1994–95 fiscal year for the nonfederal share of the ARS, for the period commencing July 1, 1993, and ending September 30, 1995, costs that are eligible for enhanced federal funding. This loan does not constitute a shift in financial responsibility for any portion of the child support enforcement program implemented under this chapter. The nonfederal share of county facility modification or acquisition and all costs related to the purchase of computer hardware, including delivery and installation costs, shall not be paid by the state nor with funds loaned to the County of Los Angeles pursuant to this paragraph.

(B) In order for the funds to be loaned, the county shall enter into a memorandum of understanding with the department. The memorandum of understanding shall be approved by the Department of Finance and shall contain all of the following specific conditions under which the loan will be made:

(i) On or before September 1, 1995, Los Angeles County shall do all of the following:

(I) Complete development and implementation of a Family Support Act certifiable automated child support enforcement system.

(II) Fully implement ARS countywide, including loading all cases into ARS, a fully functioning collections and distribution system operating within ARS and a financial reporting system operating within ARS.

(III) Complete the identification and transfer of all duplicate cases with other counties when the case is received by Los Angeles County no later than June 1, 1995, as specified in the memorandum of understanding between the department and the county.

(IV) Complete programming and acceptance testing necessary for ARS to interface with SACSS.

(ii) If the conditions in clause (i) are not met by September 1,

1995, all funds loaned to Los Angeles County shall pursuant to subparagraph (A) for ARS be immediately due and payable to the department.

(iii) If Los Angeles County meets all of the conditions in clause (i) by September 1, 1995, and achieves all of the following goals in the 1995–96 fiscal year, the county shall not be required to repay the loan authorized by this section:

(I) Increase the number of successful locates by 75 percent over those located in the 1992–93 fiscal year.

(II) Increase the number of paternities established by 75 percent over those established in the 1992–93 fiscal year.

(III) Increase the number of child support enforcement orders established by 75 percent over those established in the 1992–93 fiscal year.

(4) If Los Angeles County meets all of the conditions in clause (i) by September 1, 1995, but does not meet the goals in clause (iii) by June 30, 1996, any funds loaned to the county pursuant to subparagraph (A) of paragraph (3) for ARS shall be repaid by the county to the department over a period of four consecutive quarters beginning January 1, 1997. The funds shall be deducted from incentive funds earned or welfare recoupment realized by the county during the repayment period.

(5) Prior to the release of any funds, Los Angeles County shall provide an accounting of expenditures claimed prior to the date of enactment of this section and a schedule of payments for the period July 1, 1994, to the end of the project.

(e) The counties shall pay the nonfederal share of the ongoing operational and maintenance costs of SACSS that are attributable to local government.

(f) As used in this section, the following definitions shall apply:

(1) "ACSES" means the Los Angeles County Automated Child Support Enforcement System.

(2) "ACSES Replacement System" or "ARS" means the modifications to ACSES that are developed by Los Angeles County pursuant to this section.

(3) "Plan of cooperation" means an agreement between a county district attorney and the department that specifies the responsibilities and activities to be performed by each party, as described in the department's manual of policies and procedures.

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

In order to ensure adequate implementation of the Los Angeles County Automated Child Support Enforcement System Replacement System in a timely manner, it is necessary that this act go into immediate effect.

CHAPTER 824

An act to amend Section 33126 of the Education Code, relating to schools.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 33126 of the Education Code is amended to read:

33126. In order to promote a model statewide standard of instructional accountability and conditions for teaching and learning, the Superintendent of Public Instruction shall, by March 1, 1989, develop and present to the State Board of Education for adoption a statewide model school accountability report card.

(a) The model school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals.

(2) Progress toward reducing drop-out rates.

(3) Estimated expenditures per pupil and types of services funded.

(4) Progress toward reducing class sizes and teaching loads.

(5) Any assignment of teachers outside their subject areas of competence.

(6) Quality and currency of textbooks and other instructional materials.

(7) The availability of qualified personnel to provide counseling and other pupil support services.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities.

(10) Adequacy of teacher evaluations and opportunities for professional improvement.

(11) Classroom discipline and climate for learning.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the workforce.

(15) The total number of instructional minutes offered in the school year, separately stated for each grade level, as compared to the total number of the instructional minutes per school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(b) In developing the statewide model school accountability report, the Superintendent of Public Instruction shall consult with a

Task Force on Instructional Improvement, to be appointed by the superintendent, composed of practicing classroom teachers, school administrators, parents, school board members, classified employees, and educational research specialists. However, the majority of the task force shall consist of practicing classroom teachers.

SEC. 2. The Legislature finds and declares that this act furthers the purposes of the Classroom Instructional Improvement and Accountability Act.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 825

An act to add Section 35185 to the Education Code and to add Article 8.2 (commencing with Section 12620) to Chapter 6 of Division 3 of Title 2 of the Government Code, relating to international student exchange visitors.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The Legislature finds and declares that international student exchange visitors are placed in a vulnerable position in a foreign land at a tender age and are unfamiliar with the legal protections available to them in the United States. Thus, the integrity, expertise, and professionalism of the international student exchange visitor placement organizations with which they do business must be beyond reproach. Therefore, it is the intent of the Legislature to establish a mechanism to accomplish the following:

(a) To protect the health, safety, and welfare of elementary and secondary international student exchange visitors participating in international student exchange visitor programs in California.

(b) To promote a quality education and living experience for each international student exchange visitor participating in programs in California.

(c) To promote the participation of international student

exchange visitors in programs in California by creating a climate that ensures the safety of those students while simultaneously promoting international awareness among California residents by encouraging California residents to interact with international student exchange visitors.

(d) To encourage public confidence, both in this state and internationally, in international student visitor exchange programs in California.

(e) To encourage and assist international student exchange visitor programs to comply with federal immigration law relating to visas (8 U.S.C. Sec. 1101) and the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. Sec. 2451; 22 C.F.R. 514.1 et seq.).

SEC. 2. Article 8.2 (commencing with Section 12620) is added to Chapter 6 of Division 3 of Title 2 of the Government Code, to read:

Article 8.2. International Student Exchange Visitor Placement Organizations

12620. This article shall be known and may be cited as the Uniform Supervision of International Student Exchange Visitor Placement Organizations Act of 1994.

12621. For the purposes of this article, the following terms shall have the following meaning unless the context clearly requires otherwise:

(a) "International student exchange visitor placement organization" or "organization" means a person, partnership, corporation, or other entity that regularly arranges the placement of international student exchange visitors for the purpose, in whole or in part, of providing the students with the opportunity to attend a school that maintains kindergarten and grades 1 to 12, inclusive, in the United States.

(b) "International student exchange visitor" or "student" means any person 18 years of age or under, or up to 21 years of age if enrolled or to be enrolled in high school in this state, who enters the United States on a nonimmigrant visa and who is placed by an international student exchange visitor placement organization in an elementary or secondary school or other educational program in this state.

(c) "Nonimmigrant visa" means a visa category assigned by the federal Immigration and Naturalization Service pursuant to Section 1101 of Title 8 of the United States Code to nonresident aliens whose primary purpose for visiting the United States is to study at the elementary or secondary school level or participate in any other educational program.

(d) "USIA" means the United States Information Agency designated to administer the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. Sec. 2451; 22 C.F.R. 514.1 et seq.).

(e) "Registry" means the Registry of International Student Exchange Visitor Placement Organizations established pursuant to

Section 12622.

12622. The Attorney General shall establish and maintain a register of organizations subject to this article. The registry shall be known as the Registry of International Student Exchange Visitor Placement Organizations.

12623. (a) Each organization shall, prior to arranging the placement of any international student exchange visitor in any school in California, register with the Attorney General's Registry of International Student Exchange Visitor Placement Organizations on the registration form prescribed by the Attorney General. Renewals of registration shall be filed with the registry by January 15 of each calendar year in which the organization does business and shall be effective for one year.

(b) The fee for registration and renewal shall be calculated as follows:

(1) All organizations designated by the USIA shall remit the following:

(A) A registration fee of one hundred fifty dollars ($150) shall be required for the initial registration of an organization and shall be payable by certified or cashier's check to the Attorney General's Registry of International Student Exchange Visitor Placement Organizations at the time of registration.

(B) An annual renewal fee of fifty dollars ($50) shall be required for renewal of registration of an organization payable as specified in subparagraph (A).

(C) The Attorney General may seek legislative approval to adjust the registration or renewal fee. Upon petition by the Attorney General, the Legislature may adjust the fees in the annual Budget Act. In no event shall the fees exceed the costs necessary to administer this article.

(2) All organizations not designated by the USIA shall remit the following:

(A) A registration fee shall be required for the initial registration of an organization and shall be payable by certified or cashier's check to the Attorney General's Registry of International Student Exchange Visitor Placement Organizations at the time of registration. The Attorney General shall establish the registration fee described in this subparagraph.

(B) An annual renewal fee shall be required for renewal of registration of an organization payable as specified in paragraph (1). The Attorney General shall establish the renewal fee described in this subparagraph.

(C) In no event shall the fees enumerated in this paragraph exceed the costs necessary to administer this article.

(c) The Attorney General may grant an extension of time to file annual registration.

(d) Failure to register is a violation of this chapter.

(e) Registration pursuant to this article shall not be considered or be represented as an endorsement of the organization by the

Attorney General or this state.

12624. The Registry of International Student Exchange Visitor Placement Organizations Fund is hereby created in the State Treasury. All fees collected by the Attorney General pursuant to this article shall be deposited into that fund. All money in the Registry of International Student Exchange Visitor Placement Organizations Fund shall, upon appropriation by the Legislature, be expended by the Attorney General for the exclusive purpose of administering this article.

12625. Subject to reasonable rules and regulations adopted by the Attorney General, the registry and copies of instruments and the documents filed with the Attorney General pursuant to this article shall be open to public inspection.

12626. (a) An application for registration pursuant to this article shall be submitted in the manner and on the forms prescribed by the Attorney General. The application shall include all of the following:

(1) Evidence that the organization meets the standards established by the Attorney General pursuant to Section 12627.

(2) The name, address, and telephone number of the organization, its chief executive officer, and the person within the organization who has primary responsibility for supervising placements within the state.

(3) If the organization has been designated by the USIA pursuant to the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. Sec. 2451); 22 C.F.R. 514.1 et seq.), the designation number provided to the organizations pursuant to that act.

(4) Whether the organization is exempt from federal income tax.

(5) A list of the organization's placements in California for the previous academic year, including the number of students placed, their home countries, the school district in which they were placed, and the length of their placements.

(6) Any other information required by the Attorney General to carry out the regulations adopted pursuant to subdivision (a) of Section 12627.

(b) The application shall be signed by the chief executive officer of the organization and the person within the organization who has primary responsibility for supervising placements of international student exchange visitors within California. If the Attorney General determines that the application is complete, the Attorney General shall file the application and the applicant shall then be registered.

(c) Each organization registered pursuant to this article shall inform the Attorney General of any changes in the information required by subdivision (a) within 30 days of the change.

12627. The Attorney General shall adopt regulations pursuant to the portion of the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) pertaining to rulemaking, as follows:

(a) Regulations on the standards and requirements that organizations must meet that are consistent with the regulations

adopted by the USIA pursuant to the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. Sec. 2451) as set forth in Section 514.1 and following of Title 22 of the Code of Federal Regulations as those regulations existed on March 19, 1993. If the federal regulations adopted by the USIA at a minimum require the same standards and requirements of this article, the Attorney General shall permit organizations designated by the USIA pursuant to those regulations to, in lieu of documentation that would otherwise be required by this article and the regulations adopted pursuant to this subdivision, provide evidence of designation by the USIA.

(b) Any regulations that are necessary for the administration of this article.

12628. Each organization shall provide an informational document, in English, to each student, host family, and designated school official in which the student is being placed. The informational document shall be provided before placement of the student in any host family or school district and shall include the following:

(a) An explanation of services to be performed by the organization for the student, host family, and the school district in which the student will be enrolled.

(b) A summary of the requirements of this chapter and any regulations adopted thereto.

(c) Telephone numbers that the student, host family, and school district may call for assistance. The telephone numbers shall include, at a minimum, a telephone number in this state for the organization and the telephone numbers of the organization's national headquarters, if any, the USIA, and the Attorney General.

12629. (a) If the Attorney General has probable cause to believe that the organization is not complying with this article, the Attorney General may conduct whatever investigation is necessary, and may seek a subpoena to obtain from public records, court officers, taxing authorities, trustees, officers and employees of an organization, and other sources, whatever information, copies of instruments, documents, reports, and records that are needed for the establishment and maintenance of the register.

(b) The Attorney General may, upon receipt of a complaint regarding an international student exchange organization, report the matter to the organization involved, the USIA, or the Council on Standards for International Educational Travel, as the Attorney General deems appropriate.

12630. Any person or organization who violates any provision of this article or who willfully and knowingly provides false or incorrect information to the Attorney General in filing documents required by this article, whether or not the documents are verified, is guilty of a misdemeanor.

SEC. 3. Section 35185 is added to the Education Code, to read:

35185. A school district may require proof of registration

pursuant to Article 8.2 (commencing with Section 12620) of Chapter 6 of Division 3 of Title 2 of the Government Code, as a condition to agreement to enroll that student.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 826

An act to amend Sections 13600 and 13601 of the Penal Code, relating to correctional facilities.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 13600 of the Penal Code is amended to read:

13600. (a) The Legislature finds and declares that peace officers of the state correctional system, including youth and adult correctional facilities, have a role in the criminal justice system that has been previously ignored in terms of creation and application of sound selection criteria for applicants and their training prior to assuming their duties. For the purposes of this section, correctional peace officers are peace officers as defined in Section 830.5 and employed by the Department of Corrections or the Department of the Youth Authority.

The Legislature further finds that sound applicant selection and training are essential to public safety and in carrying out the missions of the Youth and Adult Correctional Agency in the custody and care of the state's offender population. The greater degree of professionalism which will result from sound screening criteria and a significant training curriculum will greatly aid the Youth and Adult Correctional Agency in maintaining smooth, efficient, and safe operations and effective programs in the Department of Corrections and the Department of the Youth Authority.

(b) There is within the Youth and Adult Correctional Agency a Commission on Correctional Peace Officers' Standards and Training, hereafter referred to as the CPOST. The Department of Corrections-Department of the Youth Authority Joint Apprenticeship Committee, as referred to in the Memorandum of

Understanding for Unit 6, is hereby renamed the Commission on Correctional Peace Officers' Standards and Training. Any reference to the Department of Corrections-Department of the Youth Authority Joint Apprenticeship Committee shall be deemed to refer to the CPOST.

(c) (1) The executive board of the CPOST shall be composed of six voting members.

(A) Two members from, appointed by, and representing the management of, the Department of Corrections and one member from, appointed by, and representing the Department of the Youth Authority.

(B) Three members from, appointed by, and representing the membership of, the California Correctional Peace Officers' Association. Two members shall be rank and file persons from State Bargaining Unit 6 and one member shall be supervisory.

(2) Each appointing authority shall appoint one alternate member for each regular member who they appoint pursuant to paragraph (1). Every alternate member shall possess the same qualifications as the regular member and shall substitute for, and vote in place of, the regular member whenever he or she is absent.

(d) The rules for voting on the executive board of the CPOST shall be as follows:

(1) Decisions shall be made by a majority vote.

(2) Proxy voting shall not be permitted.

(3) Tentative approval of a decision may be taken by a telephone vote. The CPOST members' decision shall be documented in writing and submitted to the CPOST for confirmation at the next scheduled CPOST meeting so as to become a part of the permanent record.

(e) The executive board of the CPOST shall adopt rules as it deems necessary for efficient operations, including, but not limited to, the appointment of advisory members for forming whatever subcommittee it deems necessary to conduct its business. These rules shall be in conformance with the State Personnel Board rules and regulations, the Department of Personnel Administration rules and regulations, and the provisions of the State Bargaining Unit 6 Memorandum of Understanding.

SEC. 2. Section 13601 of the Penal Code is amended to read:

13601. (a) The CPOST shall develop, approve, and monitor standards for the selection and training of state correctional peace officer apprentices. Any standard for selection established under this subdivision shall be subject to approval by the State Personnel Board. The CPOST may disapprove any training courses created pursuant to the standards developed by the committee if it determines that the courses do not meet the prescribed standards.

(b) The CPOST shall develop, approve, and monitor standards for advanced state correctional peace officer and supervisory curricula. When a correctional peace officer is promoted, he or she shall be required to complete these secondary training experiences.

(c) The CPOST shall develop, approve, and monitor standards for

the training of state correctional peace officers in the handling of stress associated with their duties. The CPOST may disapprove any training courses created pursuant to the standards developed by the committee if it determines that the courses do not meet the prescribed standards.

(d) Toward the accomplishment of the objectives of this act, the CPOST may confer with, and may avail itself of the assistance and recommendations of, other state and local agencies, boards, or commissions.

(e) Notwithstanding the authority of the CPOST, the departments shall design and deliver training programs, shall conduct validation studies, and shall provide program support. The CPOST shall monitor program compliance by the departments.

(f) The objective of the CPOST shall address standards for the training of rank and file correctional peace officer classes and first-line supervisors in each department.

CHAPTER 827

An act to add Section 17052.25 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 17052.25 is added to the Revenue and Taxation Code, to read:

17052.25. (a) For each taxable year beginning on or after January 1, 1994, there shall be allowed as a credit against the "net tax," as defined in Section 17039, an amount equal to 50 percent of the costs paid or incurred by a taxpayer for the adoption of any minor child who is a citizen or legal resident of the United States and was in the custody of a public agency of either this state or a political subdivision of this state. The credit shall not exceed two thousand five hundred dollars ($2,500) per minor child.

(b) "Costs" eligible for the credit pursuant to subdivision (a) shall include the following:

(1) Fees for required services of either the Department of Social Services or a licensed adoption agency.

(2) Travel and related expenses for the adoptive family that are directly related to the adoption process.

(3) Medical fees and expenses that are not reimbursed by insurance and are directly related to the adoption process.

(c) The credit authorized by this section shall only be claimed for the taxable year in which the decree or order of adoption is entered pursuant to Section 8612 of the Family Code. However, the allowable

credit claimed may include any costs of that adoption paid or incurred in any prior taxable year.

(d) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the total credit of two thousand five hundred dollars ($2,500) per minor child is exhausted.

(e) Any deduction otherwise allowed under this part for any amount paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit allowed under this section.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 828

An act to amend Sections 25102 and 25608 of the Corporations Code, relating to corporations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 25102 of the Corporations Code is amended to read:

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

(a) Any offer (but not a sale) not involving any public offering and the execution and delivery of any agreement for the sale of securities pursuant to the offer if (1) the agreement contains substantially the following provision: "The sale of the securities which are the subject of this agreement has not been qualified with the Commissioner of Corporations of the State of California and the issuance of the securities or the payment or receipt of any part of the consideration therefor prior to the qualification is unlawful, unless the sale of securities is exempt from the qualification by Section 25100, 25102, or 25105 of the California Corporations Code. The rights of all parties to this agreement are expressly conditioned upon the qualification being obtained, unless the sale is so exempt"; and (2) no part of the purchase price is paid or received and none of the securities are issued until the sale of the securities is qualified under this law unless the sale of securities is exempt from the qualification by this section, Section 25100 or 25105.

(b) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, or for which an offering statement under

Regulation A has been filed but has not yet been qualified, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of the act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this law.

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

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

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

(f) Any offer or sale of any security in a transaction (other than an offer or sale to a pension or profit-sharing trust of the issuer) which meets each of the following criteria:

(1) Sales of the security are not made to more than 35 persons, including persons not in this state.

(2) All purchasers either have a preexisting personal or business relationship with the offeror or any of its partners, officers, directors or controlling persons, or by reason of their business or financial experience or the business or financial experience of their professional advisors who are unaffiliated with and who are not compensated by the issuer or any affiliate or selling agent of the issuer, directly or indirectly, could be reasonably assumed to have the capacity to protect their own interests in connection with the transaction.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or a trust account if the purchaser is a trustee) and not with a view to or for sale in connection with any distribution of the security.

(4) The offer and sale of the security is not accomplished by the publication of any advertisement. The number of purchasers referred to above is exclusive of any described in subdivision (i), any officer, director or affiliate of the issuer and any other purchaser who the commissioner designates by rule. For purposes of this section, a husband and wife (together with any custodian or trustee acting for the account of their minor children) are counted as one person and a partnership, corporation or other organization which was not specifically formed for the purpose of purchasing the security offered in reliance upon this exemption, is counted as one person. The commissioner may by rule require the issuer to file a notice of transactions under this subdivision; provided, however, that the

failure to file the notice or the failure to file the notice within the time specified by the rule of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice as provided by rule of the commissioner shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110.

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

(h) Any offer or sale of voting common stock by a corporation incorporated in any state if, immediately after the proposed sale and issuance, there will be only one class of stock of the corporation outstanding which is owned beneficially by no more than 35 persons, provided all of the following requirements have been met:

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

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

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

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

(5) A notice in a form prescribed by rule of the commissioner,

signed by an active member of the State Bar of California, shall be filed with or mailed for filing to the commissioner not later than 10 business days after receipt of consideration for the securities by the issuer, which notice shall contain an opinion of the member of the State Bar of California that the exemption provided by this subdivision is available for the offer and sale of the securities; provided, however, that the failure to file the notice as required by this subdivision and the rules of the commissioner shall not affect the availability of this exemption. An issuer who fails to file the notice within the time specified by this subdivision shall, within 15 business days after demand by the commissioner, file the notice and pay to the commissioner a fee equal to the fee payable had the transaction been qualified under Section 25110. The notice, except when filed on behalf of a California corporation, shall be accompanied by an irrevocable consent, in the form that the commissioner by rule prescribes, appointing the commissioner or his or her successor in office to be the issuer's attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against it or its successor which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the issuer. An issuer on whose behalf a consent has been filed in connection with a previous qualification or exemption from qualification under this law (or application for a permit under any prior law if the application or notice under this law states that the consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at its last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within the further time as the court allows.

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

(i) Any offer or sale (1) to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or other institutional investor or governmental agency or instrumentality that the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee, or (2) to any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly

owned subsidiary of such a corporation which after the offer and sale will own directly or indirectly 100 percent of the outstanding capital stock of the issuer; provided the purchaser represents that it is purchasing for its own account (or for the trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(j) Any offer or sale of any certificate of interest or participation in an oil or gas title or lease (including subsurface gas storage and payments out of production) if (1) all of the purchasers: (i) are and have been during the preceding two years engaged primarily in the business of drilling for, producing, or refining oil or gas (or whose corporate predecessor, in the case of a corporation, has been so engaged), or (ii) are persons described in clause (1) of subdivision (i) of this section, or (iii) have been found by the commissioner upon written application to be substantially engaged in the business of drilling for, producing or refining oil or gas so as not to require the protection provided by this law (which finding shall be effective until rescinded), or (2) the security is concurrently hypothecated to a bank in the ordinary course of business to secure a loan made by the bank; provided each purchaser represents that it is purchasing for its own account for investment and not with a view to or for sale in connection with any distribution of the security.

(k) Any offer or sale of any security under, or pursuant to, a plan of reorganization under Chapter 11 of the federal bankruptcy law which has been confirmed or is subject to confirmation by the decree or order of a court of competent jurisdiction.

(*l*) Any offer or sale of an option, warrant, put, call, or straddle, and any guarantee of any of these securities, by a person who is not the issuer of the security subject to the right, if the transaction, had it involved an offer or sale of the security subject to the right by the person, would not have violated Section 25110 or 25130.

(m) Any offer or sale of a stock to a pension, profit-sharing, stock bonus or employee stock ownership plan provided that (1) the plan meets the requirements for qualification under Section 401 of the Internal Revenue Code, and (2) the employees are not required or permitted individually to make any contributions to the plan. The exemption provided by this subdivision shall not be affected by whether the stock is contributed to the plan, purchased from the issuer with contributions by the issuer or an affiliate of the issuer, or purchased from the issuer with funds borrowed from the issuer, an affiliate of the issuer or any other lender.

(n) Any offer or sale of any security in a transaction, other than an offer or sale of a security in a rollup transaction, that meets all of the following criteria:

(1) The issuer is (A) a California corporation or foreign corporation that, at the time of the filing of the notice required under this subdivision, is subject to Section 2115, without regard to the notice filing requirement under Section 2108, or (B) any other form of business entity, including without limitation a partnership or trust

organized under the laws of this state. The exemption provided by this subdivision is not available to a "blind pool" issuer, as that term is defined by the commissioner, or to an investment company subject to the Investment Company Act of 1940.

(2) Sales of securities are made only to qualified purchasers or other persons the issuer reasonably believes, after reasonable inquiry, to be qualified purchasers. A corporation, partnership, or other organization specifically formed for the purpose of acquiring the securities offered by the issuer in reliance upon this exemption may be a qualified purchaser if each of the equity owners of the corporation, partnership, or other organization is a qualified purchaser. Qualified purchasers include the following:

(A) A person designated in Section 260.102.13 of Title 10 of the California Code of Regulations.

(B) A person designated in subdivision (i) or any rule of the commissioner adopted thereunder.

(C) A pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or an individual retirement account, if the investment decisions made on behalf of the trust, plan, or account are made solely by persons who are qualified purchasers.

(D) An organization described in Section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, each with total assets in excess of five million dollars ($5,000,000) according to its most recent audited financial statements.

(E) With respect to the offer and sale of one class of voting common stock of an issuer or of preferred stock of an issuer entitling the holder thereof to at least the same voting rights as the issuer's one class of voting common stock, provided that the issuer has only one-class voting common stock outstanding upon consummation of the offer and sale, a natural person who, either individually or jointly with the person's spouse, (i) has a minimum net worth of two hundred fifty thousand dollars ($250,000) and had, during the immediately preceding tax year, gross income in excess of one hundred thousand dollars ($100,000) and reasonably expects gross income in excess of one hundred thousand dollars ($100,000) during the current tax year or (ii) has a minimum net worth of five hundred thousand dollars ($500,000). "Net worth" shall be determined exclusive of home, home furnishings, and automobiles. Other assets included in the computation of net worth may be valued at fair market value.

Each such natural person, by reason of his or her business or financial experience, or the business or financial experience of his or her professional advisor, who is unaffiliated with and who is not compensated, directly or indirectly, by the issuer or any affiliate or selling agent of the issuer, can be reasonably assumed to have the capacity to protect his or her interests in connection with the transaction. The amount of the investment of each natural person shall not exceed 10 percent of the net worth, as determined by this

subparagraph, of that natural person.

(F) Any other purchaser designated as qualified by rule of the commissioner.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or trust account, if the purchaser is a trustee) and not with a view to or for sale in connection with a distribution of the security.

(4) Each natural person purchaser, including a corporation, partnership, or other organization specifically formed by natural persons for the purpose of acquiring the securities offered by the issuer, receives, at least five business days before securities are sold to, or a commitment to purchase is accepted from, the purchaser, a written offering disclosure statement, which shall meet the disclosure requirements of Regulation D (17 C.F.R. 230.501 et seq.), and any other information as may be prescribed by rule of the commissioner; provided that the issuer shall not be obligated pursuant to the provisions of this paragraph to provide this disclosure statement to a natural person qualified under Section 260.102.13 of Title 10 of the California Code of Regulations. The offer or sale of securities pursuant to a disclosure statement required by this paragraph in violation of Section 25401, or which fails to meet the disclosure requirements of Regulation D (17 C.F.R. 230.501 et seq.), shall not render unavailable to the issuer the claim of an exemption from the provisions of Section 25110 afforded by this subdivision. This paragraph does not impose, directly or indirectly, any additional disclosure obligation with respect to any other exemption from qualification available under any other provision of this section.

(5) (A) A general announcement of proposed offering may be published by written document only, provided that the general announcement of proposed offering sets forth the following required information:

(i) The name of the issuer of the securities.

(ii) The full title of the security to be issued.

(iii) The anticipated suitability standards for prospective purchasers.

(iv) A statement that (I) no money or other consideration is being solicited or will be accepted, (II) an indication of interest made by a prospective purchaser involves no obligation or commitment of any kind, and, if the issuer is required by paragraph (4) to deliver a disclosure statement to prospective purchasers, (III) no sales will be made or commitment to purchase accepted until five business days after delivery of a disclosure statement and subscription information to the prospective purchaser in accordance with the requirements of this subdivision.

(v) Any other information required by rule of the commissioner.

(vi) The following legend: "For more complete information about (Name of Issuer) and (Full Title of Security), send for additional information from (Name and Address) by sending this coupon or calling (Telephone Number)."

(B) The general announcement of proposed offering referred to in subparagraph (A) may also set forth the following information:

(i) A brief description of the business of the issuer.

(ii) The geographic location of the issuer and its business.

(iii) The price of the security to be issued, or, if the price is not known, the method of its determination or the probable price range as specified by the issuer, and the aggregate offering price.

(C) The general announcement of proposed offering shall contain only the information that is set forth in this paragraph.

(D) Dissemination of the general announcement of proposed offering to persons who are not qualified purchasers, without more, shall not disqualify the issuer from claiming the exemption under this subdivision.

(6) No telephone solicitation shall be permitted until the issuer has determined that the prospective purchaser to be solicited is a qualified purchaser.

(7) The issuer files a notice of transaction under this subdivision both (A) concurrent with the publication of a general announcement of proposed offering or at the time of the initial offer of the securities, whichever occurs first, accompanied by a filing fee, and (B) within 10 business days following the close or abandonment of the offering, but in no case more than 210 days from the date of filing the first notice. The first notice of transaction under subparagraph (A) shall contain an undertaking, in a form acceptable to the commissioner, to deliver any disclosure statement required by paragraph (4) to be delivered to prospective purchasers, and any supplement thereto, to the commissioner within 10 days of the commissioner's request for the information. The exemption from qualification afforded by this subdivision is unavailable if an issuer fails to file the first notice required under subparagraph (A) or to pay the filing fee. The commissioner has the authority to assess an administrative penalty of up to one thousand dollars ($1,000) against an issuer that fails to deliver the disclosure statement required to be delivered to the commissioner upon the commissioner's request within the time period set forth above. Neither the filing of the disclosure statement nor the failure by the commissioner to comment thereon precludes the commissioner from taking any action deemed necessary or appropriate under this division with respect to the offer and sale of the securities.

SEC. 2. Section 25608 of the Corporations Code is amended to read:

25608. (a) The commissioner shall charge and collect the fees fixed in this section. All fees charged and collected under this section shall be transmitted to the Treasurer at least weekly, accompanied by a detailed statement thereof and shall be credited to the State Corporations Fund.

(b) The fee for filing an application for a negotiating permit under subdivision (c) of Section 25102 is fifty dollars ($50).

(c) The fee for filing a notice pursuant to paragraph (5) of

subdivision (h) of Section 25102, the fee for filing a notice pursuant to paragraph (4) of subdivision (f) of Section 25102, and the fee for filing a notice pursuant to paragraph (6) of subdivision (h) of Section 25103, in addition to the fee prescribed in those paragraphs, if applicable, shall be determined based on the value of the securities proposed to be sold in the transaction for which the notice is filed and in accordance with subdivision (g), and shall be as follows:

Value of Securities Proposed to be Sold	Filing Fee
$25,000 or less	$ 25
$25,001 to $100,000	$ 35
$100,001 to $500,000	$ 50
$500,001 to $1,000,000	$150
Over $1,000,000	$300

(d) The fee for filing an application for designation of an issuer pursuant to subdivision (k) of Section 25100 is fifty dollars ($50).

(e) The fee for filing an application for qualification of the sale of securities by notification under Section 25112 or by permit under paragraph (1) of subdivision (b) of Section 25113 (except applications for qualification by permit of the sale of any guarantee of any security, the fees for which applications are fixed in subdivision (k)) is two hundred dollars ($200) plus one-fifth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of two thousand five hundred dollars ($2,500).

The fee for filing a small company application for qualification of the sale of securities by permit under paragraph (2) of subdivision (b) of Section 25113 is two thousand five hundred dollars ($2,500). In the case where the costs of processing a small company application exceed the filing fee, an additional fee shall be charged, not to exceed one thousand dollars ($1,000), over and above the filing fee based on the costs of the salary or other compensation paid to persons processing the application plus overhead costs reasonably incurred in the performance of the work. In determining the costs, the commissioner may use the estimated average hourly cost for all persons processing applications for the fiscal year.

(f) The fee for filing an application for qualification of the sale of securities by coordination under Section 25111 is two hundred dollars ($200) plus one-fifth of 1 percent of the aggregate value of the securities sought to be sold in this state up to a maximum aggregate fee of two thousand five hundred dollars ($2,500).

(g) For the purpose of determining the fees fixed in subdivisions (e) and (f):

(1) The value of the securities shall be the price at which the company proposes to sell the securities, or the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration (if other than money) to be received in

exchange therefor, or of the securities when sold, whichever is greater.

(2) Interim or voting trust certificates shall have a value equal to the aggregate value of the securities to be represented by the interim or voting trust certificates.

(3) The value of a warrant or right to purchase or subscribe to another security of the same or another issuer shall be an amount equal to the consideration to be paid for that warrant or right plus an amount equal to the consideration to be paid upon purchase of the additional securities, provided that if the latter amount is not determinable at the time of qualification, that amount shall then be the value of the additional securities as determined by the commissioner.

(4) In the case of a share dividend where the shareholders are given an option to accept either cash or additional shares of common stock, the value of the securities to be sold shall be the maximum amount of cash which would be payable in the event that all shareholders elected to accept cash.

(h) The fee for filing an application for qualification of the sale of securities by permit under Section 25121 is:

(1) Two hundred dollars ($200) in connection with any change (including any stock split or reverse stock split or stock dividend, except a stock dividend where the shareholders are given an option to accept either cash or additional shares of common stock) in the rights, preferences, privileges, or restrictions of or on outstanding securities.

(2) Two hundred dollars ($200) plus one-fifth of 1 percent of the value, as alleged in the application, or the actual value, as determined by the commissioner, of the consideration to be received in exchange therefor, up to a maximum aggregate fee of two thousand five hundred dollars ($2,500), in any exchange of securities by the issuer with its existing security holders exclusively, or in any exchange in connection with any merger or consolidation or purchase of corporate assets in consideration of the issuance of securities.

(i) The fee for filing an application for qualification of the sale of securities by notification under Section 25131 shall be one hundred dollars ($100).

(j) The fee for an application for the removal of any condition under Section 25141 is fifty dollars ($50).

(k) The fee for filing any application for a permit to execute or issue any guarantee of any security is fifty dollars ($50).

(*l*) The fee for acting as escrow holder for securities under Section 25149 is fifty dollars ($50). In addition, a fee of two dollars and fifty cents ($2.50) shall be paid for the deposit with the commissioner of each new certificate or other document resulting from a transfer in escrow.

(m) The fee for filing an application for an order (1) consenting to the transfer in escrow of securities, (2) consenting to the transfer of securities subject to any condition imposed by the commissioner

requiring the commissioner's consent to the transfer, or (3) consenting to the transfer of securities subject to a legend stamped or printed on the certificates evidencing the securities pursuant to subdivision (h) of Section 25102, is twenty dollars ($20) for each transferor.

(n) The filing fee for an amendment to an application filed after the effective date of the qualification of the sale of securities is fifty dollars ($50) plus any additional fee which would have been required to be paid with the original application for qualification of the sale of securities under this section if the matters set forth in the amendment had been included in the original application.

(o) (1) The fee for filing an application for a broker-dealer certificate under Section 25211 is three hundred dollars ($300).

(2) Each broker-dealer shall pay to the commissioner its pro rata share of all costs and expenses, reasonably incurred in the administration of the broker-dealer program under this division, as estimated by the commissioner for the ensuing year and any deficit actually incurred or anticipated in the administration of the program in the year in which the assessment is made. The pro rata share shall be the proportion which the broker-dealer and the number of its agents in this state bears to the aggregate number of broker-dealers and agents in this state as shown by records maintained by or on behalf of the commissioner. The pro rata share may include the costs of any examinations, audit, or investigation provided for in subdivision (r).

(3) On or before the 30th day of May in each year, the commissioner shall notify each broker-dealer by mail of the amount assessed and levied against it and that amount shall be paid within 20 days thereafter. If payment is not made within 20 days, the commissioner shall assess and collect a penalty in addition to the assessment, of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(4) In the levying and collection of the assessment, a broker-dealer shall not be assessed for, nor be permitted to pay, less than seventy-five dollars ($75) per year.

(5) In determining the amount assessed, the commissioner shall consider all appropriations from the State Corporations Fund for the support of the broker-dealer program under this division and all reimbursements applicable to the administration of the broker-dealer program under this division.

(6) If a broker-dealer fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the certificate issued to the broker-dealer. If, after that order is made, a request for hearing is filed in writing and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a broker-dealer shall not conduct business pursuant to this division except as may be permitted by order of the commissioner; provided,

however, that the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided under this division.

(p) The commissioner shall charge a fee of twenty-five dollars ($25) for the filing of a notice or report required by rule adopted pursuant to subdivision (b) of Section 25210.

(q) The fee for filing an application for an investment adviser under Section 25231 is one hundred twenty-five dollars ($125), and payment of this amount shall keep the certificate, if granted, in effect during the calendar year during which it is granted. Every investment adviser who has secured from the commissioner a certificate shall, in order to keep the certificate in effect for an additional period, pay a renewal fee of one hundred twenty-five dollars ($125) on or before the 15th day of December preceding the additional period.

(r) The fee for any examination, audit, or investigation is the amount of the salary or other compensation paid to the persons making the examination, audit, or investigation plus the amount of expenses including overhead reasonably incurred in the performance of the work. In determining the costs associated with an examination, audit, or investigation, the commissioner may use the estimated average hourly cost for all persons performing examinations, audits, or investigations for the fiscal year.

(s) The fee for any hearing held by the commissioner pursuant to Section 25142 shall be the sum determined by the commissioner to cover the actual expense of noticing and holding the hearing.

(t) The commissioner may fix by rule a reasonable charge for any publications issued under his or her authority. The charges shall not apply to reports of the commissioner in the ordinary course of distribution.

(u) The fee for filing an offer under subdivision (b) of Section 25507 shall be the amount of filing fee payable under subdivision (e), (f), (h), or (i) of this section if an application had been filed to qualify the transaction in which the securities upon which the offer is to be made were sold in violation of the qualification provisions of this law.

(v) The fee for filing an application for exemption pursuant to subdivision (*l*) of Section 25100 is two hundred fifty dollars ($250).

(w) The commissioner may by rule require payment of a fee for filing a notice or report required by a rule adopted pursuant to Section 25105. The fee required in connection with a transaction as defined by that rule shall not exceed the fees specified in subdivision (c) based on the value of the securities sold, but the commissioner may permit a single notice for more than one transaction.

(x) The fee for filing the first notice of transaction under subdivision (n) of Section 25102 is six hundred dollars ($600).

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

In order to facilitate the ability of small companies to raise capital to finance their growth, it is necessary for this act to take effect immediately.

CHAPTER 829

An act to amend Section 1035 of the Insurance Code, relating to insurance.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1035 of the Insurance Code is amended to read:

1035. In any proceeding under this article, the commissioner shall have the power to appoint and employ under his or her hand and official seal, special deputy commissioners, as his or her agents, and to employ clerks and assistants and to give to each of them those powers that he or she deems necessary. Upon appointing or employing special deputy commissioners, clerks, or assistants, the commissioner shall notify the Chair of the Joint Budget Committee of the Legislature, by letter, of the action. The costs of employing special deputy commissioners, clerks, and assistants appointed to carry out this article, and all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of that person under this article, shall be fixed by the commissioner, subject to the approval of the court, and shall be paid out of the assets of that person to the department. In the event the property of that person does not contain cash or liquid assets sufficient to defray the cost of the services required to be performed under the terms of this article, the commissioner may at any time or from time to time pay the cost of those services out of the appropriation for the maintenance of the department, but not out of the assets of other estates. Any amounts so paid shall be deemed expense of administration and shall be repaid to the fund out of the first available moneys in the estate.

CHAPTER 830

An act to add Section 15334.3 to the Government Code, relating to economic and business development.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 15334.3 is added to the Government Code, to read:

15334.3. The Legislature finds and declares that a statewide network of visitor information centers, to be known as California Welcome Centers, readily accessible to and recognizable by tourists, would encourage tourism in California and provide benefits to the state economy. The Office of Tourism shall perform the following functions and activities for the purpose of establishing and enhancing a statewide network of California Welcome Centers:

(a) The Office of Tourism shall designate a statewide network of California Welcome Centers. Centers that may be so designated shall include, but not be limited to, centers operated by convention centers and visitor bureaus, chambers of commerce, local governments, state government, federal government, or private entities. California Welcome Centers may be designated through a method employing solicitations for negotiation or for proposal from interested entities. Only an entity that wishes to be designated a California Welcome Center may be so designated by the Office of Tourism. Criteria for designation shall include, but not be limited to, accessibility, proximity to tourist attractions, size, appearance, and maintenance. The Office of Tourism may limit the number of designated California Welcome Centers within any geographic area of the state should the office determine that a limit is needed to prevent an excessive density of centers.

(b) Designation of an entity as a California Welcome Center shall be based on conditions established by the Office of Tourism through written agreement with the entity. Conditions in the agreement shall require, at a minimum, that the entity operate at hours convenient to visitors and display visitor information produced by government entities at no cost to the government entity. Agreements may vary in their requirements according to local conditions and needs. Agreements shall not be construed as agreements for the performance of services to be provided to the state, or by the state, with any person or public body. Nothing in this subdivision shall preclude a California Welcome Center from displaying visitor information produced by a tourism-related trade association or any other appropriate entity.

(c) The Office of Tourism shall designate a logo for California Welcome Centers. The logo shall be displayed prominently on the

exterior of any California Welcome Center.

(d) The Department of Transportation, to the maximum extent feasible, shall install and maintain California Welcome Center highway signs when requested by the Office of Tourism. The Office of Tourism shall consult with the Department of Transportation in the design and placement of California Welcome Center highway signs to ensure that design and placement of the highway signs are reasonably consistent with state and federal standards.

(e) The Office of Tourism shall collect fees from any entity operating a California Welcome Center in an amount sufficient to defray the costs incurred by the state in administering this section, including, but not limited to, costs incurred by the Department of Transportation pursuant to subdivision (d). Costs associated with the ongoing maintenance and upkeep of these centers shall be borne by the entity operating a California Welcome Center. The amount collected shall be deposited in a special account in the State Treasury maintained for that purpose and shall be available, when appropriated by the Legislature, for the purposes of this section.

(f) Every entity of state government shall cooperate with the Office of Tourism in furthering the provisions of this section.

(g) In the event that the Office of Tourism drafts regulations implementing this section, the office shall submit the regulations to the California Tourism Commission for the commission's review prior to the adoption of the regulations.

CHAPTER 831

An act to amend Section 39831.5 of the Education Code, and to amend Section 22112 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 39831.5 of the Education Code is amended to read:

39831.5. (a) All pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive, in public or private school who are transported in a schoolbus or school pupil activity bus shall receive instruction in schoolbus emergency procedures and passenger safety. The county superintendent of schools, superintendent of the school district, or owner/operator of a private school, as applicable, shall ensure that the instruction is provided as follows:

(1) Upon registration, the parents or guardians of all pupils not previously transported in a schoolbus or school pupil activity bus and who are in prekindergarten, kindergarten, and grades 1 to 6,

inclusive, shall be provided with written information on schoolbus safety. The information shall include, but not be limited to, all of the following:

(A) A list of schoolbus stops near each pupil's home.

(B) General rules of conduct at schoolbus loading zones.

(C) Red light crossing instructions.

(D) Schoolbus danger zone.

(E) Walking to and from schoolbus stops.

(2) At least once in each school year, all pupils in prekindergarten, kindergarten, and grades 1 to 8, inclusive, who receive home-to-school transportation shall receive safety instruction which includes, but is not limited to, proper loading and unloading procedures, including escorting by the driver, proper passenger conduct, bus evacuation, and location of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit. As part of the instruction, pupils shall evacuate the schoolbus through emergency exit doors.

(3) Prior to departure on a school activity trip, all pupils riding on a schoolbus or school pupil activity bus shall receive safety instruction which includes, but is not limited to, location of emergency exits, and location and use of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit.

(b) The following information shall be documented each time the instruction required by paragraph (2) of subdivision (a) is given:

(1) Name of school district, county office of education, or private school.

(2) Name and location of school.

(3) Date of instruction.

(4) Names of supervising adults.

(5) Number of pupils participating.

(6) Grade levels of pupils.

(7) Subjects covered in instruction.

(8) Amount of time taken for instruction.

(9) Bus driver's name.

(10) Bus number.

(11) Additional remarks.

The information recorded pursuant to this subdivision shall remain on file at the district or county office, or at the school, for one year from the date of the instruction, and shall be subject to inspection by the Department of the California Highway Patrol.

SEC. 2. Section 22112 of the Vehicle Code is amended to read:

22112. (a) On approach to a schoolbus stop where pupils are loading or unloading from a schoolbus and must cross a highway or private road, the driver of the schoolbus shall activate an approved flashing amber light warning system, if the bus is so equipped, beginning 200 feet before the bus stop. When safe to do so the driver shall operate the flashing red signal lights and stop signal arm, as required on the schoolbus, at all times when the schoolbus is stopped

for the purpose of loading or unloading pupils who must cross a highway or private road upon which the schoolbus is stopped. The flashing red signal lights, amber warning lights, and stop signal arm system shall not be operated at any place where traffic is controlled by a traffic officer or official traffic control signal. The schoolbus flashing red signal lights, amber warning lights, and stop signal arm system shall not be operated at any other time.

(b) The driver shall stop to load or unload pupils only at a schoolbus stop designated for pupils by the school district superintendent or authorized by the superintendent for school activity trips.

(c) When pupils need to cross a highway or private road upon which the schoolbus is stopped, at a location where traffic is not controlled by a traffic officer or official traffic control signal, the driver shall do all of the following:

(1) Check for approaching traffic in all directions and activate the flashing red light signal system and stop signal arm, as defined in Section 25257, if equipped with a stop signal arm, only when safe to do so.

(2) Before opening the door, ensure that the flashing red signal lights and stop signal arm are activated, and that it is safe to exit the schoolbus.

(3) Escort all pupils in prekindergarten, kindergarten, or any of grades 1 to 8, inclusive, across the highway or private road. The driver shall use an approved hand-held "STOP" sign while escorting all pupils.

(4) Require all pupils to walk in front of the bus as they cross the highway or private road.

(5) Ensure that all pupils who need to cross the highway or private road have crossed safely, and that all other unloaded pupils and pedestrians are a safe distance from the bus and it is safe to move before setting the bus in motion.

(d) A school district may designate selected schoolbus stops as stops that may require the activation of the flashing red light as required in subdivision (a) even though there are no pupils crossing the roadway. These stops shall only be so designated because they present unique traffic hazards which can only be addressed by the use of the flashing red lights. No school district shall designate a schoolbus stop under this subdivision without the prior approval of the department and the agency having traffic engineering responsibility for the street on which the stop is located.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to prevent accidents and improve the safety of school pupils, it is necessary that this act take effect immediately.

CHAPTER 832

An act to amend Section 34501 of, and to add Sections 595 and 34520 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 595 is added to the Vehicle Code, to read:

595. "Terminal" is a place where a vehicle of a type listed in Section 34500 is regularly garaged or maintained, or from which the vehicle is operated or dispatched.

SEC. 2. Section 34501 of the Vehicle Code is amended to read:

34501. (a) (1) The department shall adopt reasonable rules and regulations which, in the judgment of the department, are designed to promote the safe operation of vehicles described in Section 34500, regarding, but not limited to, controlled substances and alcohol testing of drivers by motor carriers, hours of service of drivers, equipment, fuel containers, fueling operations, inspection, maintenance, recordkeeping, accident reports, and drawbridges. The rules and regulations shall not, however, be applicable to schoolbuses, which shall be subject to rules and regulations adopted pursuant to Section 34501.5.

The rules and regulations shall exempt local law enforcement agencies, within a single county, engaged in the transportation of inmates or prisoners when those agencies maintain other motor vehicle operations records which furnish hours of service information on drivers which are in substantial compliance with the rules and regulations. This exemption does not apply to any local law enforcement agency engaged in the transportation of inmates or prisoners outside the county in which the agency is located, if that agency would otherwise be required, by existing law, to maintain driving logs.

(2) The commissioner shall appoint a committee of 15 members, consisting of representatives of industry subject to the regulations to

be adopted pursuant to this section, to act in an advisory capacity to the department, and the department shall cooperate and confer with the advisory committee so appointed. The commissioner shall appoint a separate committee to advise the department on rules and regulations concerning wheelchair lifts for installation and use on buses, consisting of persons who use the wheelchair lifts, representatives of transit districts, representatives of designers or manufacturers of wheelchairs and wheelchair lifts, and representatives of the Department of Transportation.

(3) The department may inspect any vehicles in maintenance facilities or terminals, as well as any records relating to the dispatch of vehicles or drivers, and the pay of drivers, to assure compliance with this code and regulations adopted pursuant to this section.

(b) The department, using the definitions adopted pursuant to Section 2402.7, shall adopt regulations for the transportation of hazardous materials in this state, except the transportation of materials which are subject to other provisions of this code, that the department determines are reasonably necessary to ensure the safety of persons and property using the highways. The regulations may include provisions governing the filling, marking, packing, labeling, and assembly of, and containers that may be used for, hazardous materials shipments, and the manner by which the shipper attests that the shipments are correctly identified and in proper conditions for transport.

(c) At least once every 13 months, the department shall inspect every maintenance facility or terminal of any person who at any time operates any bus. If the bus operation includes more than 100 buses, the inspection shall be without prior notice.

(d) The commissioner shall adopt and enforce regulations which will make the public or private users of any bus aware of the operator's last safety rating.

(e) It is unlawful and constitutes a misdemeanor for any person to operate any bus without the inspection specified in subdivision (c) having been conducted.

(f) The department may adopt regulations restricting or prohibiting the movement of any vehicle from a maintenance facility or terminal if the vehicle is found in violation of this code or regulations adopted pursuant to this section.

SEC. 3. Section 34520 is added to the Vehicle Code, to read:

34520. (a) Motor carriers and drivers shall comply with the controlled substances and alcohol use and testing requirements of the United States Secretary of Transportation as set forth in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.

(b) (1) Every motor carrier shall make available for inspection, upon the request of an authorized employee of the department, copies of all results and other records pertaining to controlled substances and alcohol use and testing conducted pursuant to federal law, as specified in subdivision (a), including those records contained

in individual driver qualification files.

(2) For purposes of complying with the return-to-duty alcohol or controlled substances test requirements, or both, of Section 382.309 of Title 49 of the Code of Federal Regulations and the followup alcohol or controlled substances test requirements, or both, of Section 382.311 of that title, the department may use those test results to monitor drivers who are motor carriers.

(3) No evidence derived from a positive test result in the possession of a motor carrier shall be admissible in a criminal prosecution concerning unlawful possession, sale, or distribution of controlled substances.

(c) Any drug or alcohol testing consortium, as defined in Section 382.107 of Title 49 of the Code of Federal Regulations, shall mail a copy of all drug and alcohol positive test result summaries to the department within three days of the test. This requirement applies only to drug and alcohol positive tests of those drivers employed by motor carriers who operate terminals within this state.

(d) It is a misdemeanor punishable by imprisonment in the county jail for six months and a fine not to exceed five thousand dollars ($5,000), or by both the imprisonment and fine, for any person to willfully violate this section.

As used in this section, "willfully" has the same meaning as defined in Section 7 of the Penal Code.

(e) This section does not apply to a driver operating any of the vehicles specified in Section 35002 if that driver is participating in a substance abuse detection program sponsored by the driver's employer.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act implements a federal law or regulation and involves only "costs mandated by the federal government," as defined by Section 17513 of the Government Code. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 833

An act to add Section 1365.9 to the Civil Code, relating to common interest developments.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1365.9 is added to the Civil Code, to read:

1365.9. Any cause of action in tort against any person arising

solely by reason of an ownership interest in the common area of a common interest development shall be brought against the association and not against the individual owners of the separate interests, as defined in subdivision (*l*) of Section 1351, provided that all of the following insurance requirements are met:

(a) The association maintained and had in effect at the time the alleged act or omission occurred and at the time a claim is made, one or more policies of insurance which include coverage for (1) general liability of the association and (2) individual liability of officers and directors of the association for negligent acts or omissions of those persons acting in their capacity as officers and directors.

(b) Both types of coverage described in paragraphs (1) and (2) of subdivision (a) are in the following minimum amounts:

(1) At least two million dollars ($2,000,000) per occurrence if the common interest development consists of 100 or fewer separate interests.

(2) At least three million dollars ($3,000,000) per occurrence if the common interest development consists of more than 100 separate interests.

(c) The association shall, upon issuance or renewal of insurance, but no less than annually, notify its homeowners as to the amount and type of insurance carried by the association, and it shall accompany this notification with statements to the effect that the association is or is not insured to the levels specified by this section, and that if not so insured, owners may be individually liable for the entire amount of a judgment, and if the association is insured to the levels specified in this section, then owners may be individually liable only for their proportional share of assessments levied to pay the amount of any judgment which exceeds the limits of the association's insurance.

CHAPTER 834

An act to add Section 8547.12 to the Government Code, relating to improper governmental activities.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 8547.12 is added to the Government Code, to read:

8547.12. (a) A California State University employee, including an officer or faculty member, or applicant for employment may file a written complaint with his or her supervisor or manager, or with any other university officer designated for that purpose by the trustees, alleging actual or attempted acts of reprisal, retaliation, threats, coercion, or similar improper acts for having disclosed

improper governmental activities, together with a sworn statement that the contents of the written complaint are true, or are believed by the affiant to be true, under penalty of perjury. The complaint shall be filed within 12 months of the most recent act of reprisal complained about.

(b) Any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a California State University employee, including an officer or faculty member, or applicant for employment for having disclosed improper governmental activities, is subject to a fine not to exceed ten thousand dollars ($10,000) and imprisonment in the county jail for up to a period of one year. Any university employee, including an officer or faculty member, who intentionally engages in that conduct shall also be subject to discipline by the university.

(c) In addition to all other penalties provided by law, any person who intentionally engages in acts of reprisal, retaliation, threats, coercion, or similar acts against a university employee, including an officer or faculty member, or applicant for employment for having disclosed improper governmental activities shall be liable in an action for damages brought against him or her by the injured party. Punitive damages may be awarded by the court where the acts of the offending party are proven to be malicious. Where liability has been established, the injured party shall also be entitled to reasonable attorney's fees as provided by law. However, any action for damages shall not be available to the injured party unless the injured party has first filed a complaint with the university officer identified pursuant to subdivision (a), and the university has failed to reach a decision regarding that complaint within the time limits established for that purpose by the trustees. Nothing in this section is intended to prohibit the injured party from seeking a remedy if the university has not satisfactorily addressed the complaint within 18 months.

(d) This section is not intended to prevent a manager or supervisor from taking, directing others to take, recommending, or approving any personnel action, or from taking or failing to take a personnel action with respect to any university employee, including an officer or faculty member, or applicant for employment if the manager or supervisor reasonably believes any action or inaction is justified on the basis of evidence separate and apart from the fact that the person has disclosed improper governmental activities.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action.

CHAPTER 835

An act to amend Sections 781 and 826 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as the petitioner alleges, in his or her petition, to have custody of the records. The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner, and the district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since the termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of the other agencies and officials as are named in the order. In any case in which a ward of the juvenile court is subject to the registration requirements set forth in Section 290 of the Penal Code, a court, in ordering the sealing of the juvenile records of the person, also shall provide in the order that the person is relieved from the registration requirement and for the destruction of all registration information in the custody of the Department of Justice and other agencies and officials. Notwithstanding any other

provision of law, the court shall not order the person's records sealed in any case in which the person has been found by the juvenile court to have committed an offense listed in subdivision (b) of Section 707 until at least three years have elapsed since commission of the offense listed in subdivision (b) of Section 707. Once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records. Each such agency and official shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it, he, or she received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), the records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) (1) Subdivision (a) does not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing any such conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers which have been granted requester code numbers by the department. Any insurer to which such a record of conviction is disclosed, when such a conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the

record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) Unless for good cause the court determines that the juvenile court record shall be retained, the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches the age of 38 if the person was alleged or adjudged to be a person described by Section 602. Any other agency in possession of sealed records may destroy its records five years after the record was ordered sealed.

(e) This section shall not permit the sealing of a person's juvenile court records for an offense where the person is convicted of that offense in a criminal court pursuant to the provisions of Section 707.1. This subdivision is declaratory of existing law.

SEC. 1.2. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as the petitioner alleges, in his or her petition, to have custody of the records. The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner, and the district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since the termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any

misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of the other agencies and officials as are named in the order. In any case in which a ward of the juvenile court is subject to the registration requirements set forth in Section 290 of the Penal Code, a court, in ordering the sealing of the juvenile records of the person, also shall provide in the order that the person is relieved from the registration requirement and for the destruction of all registration information in the custody of the Department of Justice and other agencies and officials. Notwithstanding any other provision of law, the court shall not order the person's records sealed in any case in which the person has been found by the juvenile court to have committed an offense listed in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707 until at least six years have elapsed since commission of the offense listed in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707. Once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records. Each such agency and official shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it, he, or she received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), the records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) (1) Subdivision (a) does not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing any such conviction to be sealed under this section, and if the

Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers which have been granted requester code numbers by the department. Any insurer to which such a record of conviction is disclosed, when such a conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) Unless for good cause the court determines that the juvenile court record shall be retained, the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches the age of 38 if the person was alleged or adjudged to be a person described by Section 602. Any other agency in possession of sealed records may destroy its records five years after the record was ordered sealed.

(e) This section shall not permit the sealing of a person's juvenile court records for an offense where the person is convicted of that offense in a criminal court pursuant to the provisions of Section 707.1. This subdivision is declaratory of existing law.

SEC. 1.3. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation

officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as the petitioner alleges, in his or her petition, to have custody of the records. The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner, and the district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since the termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of the other agencies and officials as are named in the order. In any case in which a ward of the juvenile court is subject to the registration requirements set forth in Section 290 of the Penal Code, a court, in ordering the sealing of the juvenile records of the person, also shall provide in the order that the person is relieved from the registration requirement and for the destruction of all registration information in the custody of the Department of Justice and other agencies and officials. Notwithstanding any other provision of law, the court shall not order the person's records sealed in any case in which the person has been found by the juvenile court to have committed an offense listed in subdivision (b) of Section 707 until at least six years have elapsed since commission of the offense listed in subdivision (b) of Section 707. Once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records. Each such agency and official shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it, he, or she received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), the records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under

this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) (1) Subdivision (a) does not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing any such conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers which have been granted requester code numbers by the department. Any insurer to which such a record of conviction is disclosed, when such a conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) Unless for good cause the court determines that the juvenile court record shall be retained, the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches the age of 38 if the person was alleged or adjudged to be a person described by Section 602. Any other agency in possession of sealed records may destroy its records five years after the record was ordered sealed.

(e) This section shall not permit the sealing of a person's juvenile court records for an offense where the person is convicted of that offense in a criminal court pursuant to the provisions of Section 707.1.

This subdivision is declaratory of existing law.

SEC. 1.4. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) (1) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as the petitioner alleges, in his or her petition, to have custody of the records.

(2) The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner, and the district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition.

(3) If, after hearing, the court finds that since the termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, except as provided in subdivision (d). The court shall order all other records relating to the case in the custody of the other agencies and officials as are named in the order.

(4) In any case in which a ward of the juvenile court is subject to the registration requirements set forth in Section 290 of the Penal Code, a court, in ordering the sealing of the juvenile records of the person, also shall provide in the order that the person is relieved from the registration requirement and for the destruction of all registration information in the custody of the Department of Justice and other agencies and officials.

(5) Notwithstanding any other law, the court shall not order the person's records sealed in any case in which the person has been found by the juvenile court to have committed an offense listed in subdivision (b) of Section 707 until at least three years have elapsed since commission of the offense listed in subdivision (b) of Section 707.

(6) Once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed, except as provided in subdivision (d).

(7) The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records. Each agency and official shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it, he, or she received.

(8) The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), the records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) (1) Subdivision (a) does not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of the conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing the conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of the conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers which have been granted requester code numbers by the department. Any insurer to which the record of conviction is disclosed, when the conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the

sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) (1) Notwithstanding subdivision (a), the court for the purposes of determining circumstances in mitigation or aggravation in any adult criminal proceeding involving a felony conviction shall have access to a juvenile court record sealed pursuant to this section with regard to any case in which a person has been adjudged to be a ward of the juvenile court pursuant to Section 602 and the juvenile court has made a finding that the person committed any offense listed in subdivision (b) of Section 707.

(2) A record described in this subdivision shall not be destroyed pursuant to subdivision (e).

(3) A juvenile adjudication in a previously sealed juvenile court record obtained by the court pursuant to paragraph (1) shall not constitute a prior felony conviction for purposes of subdivisions (b) to (i), inclusive, of Section 667, or Section 1170.12 if added to this code by initiative statute at the November 8, 1994, general election.

(e) Unless for good cause the court determines that the juvenile court record shall be retained, and except as provided in paragraph (2) of subdivision (d), the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches the age of 38 if the person was alleged or adjudged to be a person described by Section 602. Any other agency in possession of sealed records may destroy its records five years after the record was ordered sealed.

(f) This section shall not permit the sealing of a person's juvenile court records for an offense where the person is convicted of that offense in a criminal court pursuant to the provisions of Section 707.1. This subdivision is declaratory of existing law.

SEC. 1.5. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) (1) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after

the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as the petitioner alleges, in his or her petition, to have custody of the records.

(2) The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner, and the district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition.

(3) If, after hearing, the court finds that since the termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, except as provided in subdivision (d). The court shall order all other records relating to the case in the custody of the other agencies and officials as are named in the order.

(4) In any case in which a ward of the juvenile court is subject to the registration requirements set forth in Section 290 of the Penal Code, a court, in ordering the sealing of the juvenile records of the person, also shall provide in the order that the person is relieved from the registration requirement and for the destruction of all registration information in the custody of the Department of Justice and other agencies and officials.

(5) Notwithstanding any other law, the court shall not order the person's records sealed in any case in which the person has been found by the juvenile court to have committed an offense listed in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707 until at least six years have elapsed since commission of the offense listed in subdivision (b), paragraph (2) of subdivision (d), or subdivision (e) of Section 707.

(6) Once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed, except as provided in subdivision (d).

(7) The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records. Each agency and official shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it, he, or she received.

(8) The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of

the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), the records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) (1) Subdivision (a) does not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of the conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing the conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of the conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers which have been granted requester code numbers by the department. Any insurer to which the record of conviction is disclosed, when the conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) (1) Notwithstanding subdivision (a), the court for the purposes of determining circumstances in mitigation or aggravation in any adult criminal proceeding involving a felony conviction shall have access to a juvenile court record sealed pursuant to this section with regard to any case in which a person has been adjudged to be a ward of the juvenile court pursuant to Section 602 and the juvenile court has made a finding that the person committed any offense listed in subdivision (b) of Section 707.

(2) A record described in this subdivision shall not be destroyed

pursuant to subdivision (e).

(3) A juvenile adjudication in a previously sealed juvenile court record obtained by the court pursuant to paragraph (1) shall not constitute a prior felony conviction for purposes of subdivisions (b) to (i), inclusive, of Section 667, or Section 1170.12 if added to this code by initiative statute at the November 8, 1994, general election.

(e) Unless for good cause the court determines that the juvenile court record shall be retained, and except as provided in paragraph (2) of subdivision (d), the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches the age of 38 if the person was alleged or adjudged to be a person described by Section 602. Any other agency in possession of sealed records may destroy its records five years after the record was ordered sealed.

(f) This section shall not permit the sealing of a person's juvenile court records for an offense where the person is convicted of that offense in a criminal court pursuant to the provisions of Section 707.1. This subdivision is declaratory of existing law.

SEC. 1.6. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) (1) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as the petitioner alleges, in his or her petition, to have custody of the records.

(2) The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner, and the district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition.

(3) If, after hearing, the court finds that since the termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor

involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order all records, papers, and exhibits in the person's case in the custody of the juvenile court sealed, including the juvenile court record, minute book entries, and entries on dockets, except as provided in subdivision (d). The court shall order other records relating to the case in the custody of the other agencies and officials as are named in the order.

(4) In any case in which a ward of the juvenile court is subject to the registration requirements set forth in Section 290 of the Penal Code, a court, in ordering the sealing of the juvenile records of the person, also shall provide in the order that the person is relieved from the registration requirement and for the destruction of all registration information in the custody of the Department of Justice and other agencies and officials.

(5) Notwithstanding any other law, the court shall not order the person's records sealed in any case in which the person has been found by the juvenile court to have committed an offense listed in subdivision (b) of Section 707 until at least six years have elapsed since commission of the offense listed in subdivision (b) of Section 707.

(6) Once the court has ordered the person's records sealed, the proceedings in the case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, the records of which are ordered sealed, except as provided in subdivision (d).

(7) The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and stating the date thereafter to destroy the sealed records. Each agency and official shall seal the records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it, he, or she received.

(8) The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), the records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) (1) Subdivision (a) does not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of the conviction

would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing the conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of the conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to the notification, the Department of Motor Vehicles shall allow access to its record of convictions only to the subject of the record and to insurers which have been granted requester code numbers by the department. Any insurer to which the record of conviction is disclosed, when the conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) (1) Notwithstanding subdivision (a), the court for the purposes of determining circumstances in mitigation or aggravation in any adult criminal proceeding involving a felony conviction shall have access to a juvenile court record sealed pursuant to this section with regard to any case in which a person has been adjudged to be a ward of the juvenile court pursuant to Section 602 and the juvenile court has made a finding that the person committed any offense listed in subdivision (b) of Section 707.

(2) A record described in this subdivision shall not be destroyed pursuant to subdivision (e).

(3) A juvenile adjudication in a previously sealed juvenile court record obtained by the court pursuant to paragraph (1) shall not constitute a prior felony conviction for purposes of subdivisions (b) to (i), inclusive, of Section 667, or Section 1170.12 if added to this code by initiative statute at the November 8, 1994, general election.

(e) Unless for good cause the court determines that the juvenile court record shall be retained, and except as provided in paragraph (2) of subdivision (d), the court shall order the destruction of a person's juvenile court records that are sealed pursuant to this section as follows: five years after the record was ordered sealed, if the person who is the subject of the record was alleged or adjudged to be a person described by Section 601; or when the person who is the subject of the record reaches the age of 38 if the person was alleged or adjudged to be a person described by Section 602. Any

other agency in possession of sealed records may destroy its records five years after the record was ordered sealed.

(f) This section shall not permit the sealing of a person's juvenile court records for an offense where the person is convicted of that offense in a criminal court pursuant to the provisions of Section 707.1. This subdivision is declaratory of existing law.

SEC. 2. Section 826 of the Welfare and Institutions Code is amended to read:

826. (a) After five years from the date on which the jurisdiction of the juvenile court over a minor is terminated, the probation officer may destroy all records and papers in the proceedings concerning the minor.

The juvenile court record, which includes all records and papers, any minute book entries, dockets and judgment dockets, shall be destroyed by order of the court as follows: when the person who is the subject of the record reaches the age of 28 years, if the person was alleged or adjudged to be a person described by Section 300, when the person who is the subject of the record reaches the age of 21 years, if the person was alleged or adjudged to be a person described by Section 601, or when the person reaches the age of 38 years if the person was alleged or adjudged to be a person described by Section 602, unless for good cause the court determines that the juvenile record shall be retained, or unless the juvenile court record is released to the person who is the subject of the record pursuant to this section. However, a juvenile court record which is not permitted to be sealed pursuant to subdivision (e) of Section 781 shall not be destroyed pursuant to this section.

Any person who is the subject of a juvenile court record may by written notice request the juvenile court to release the court record to his or her custody. Wherever possible, the written notice shall include the person's full name, the person's date of birth, and the juvenile court case number. Any juvenile court receiving the written notice shall release the court record to the person who is the subject of the record five years after the jurisdiction of the juvenile court over the person has terminated, if the person was alleged or adjudged to be a person described by Section 300, or when the person reaches the age of 21 years, if the person was alleged or adjudged to be a person described by Section 601, unless for good cause the court determines that the record shall be retained. Exhibits shall be destroyed as provided under Sections 1418, 1418.5, and 1419 of the Penal Code. For the purpose of this section "destroy" means destroy or dispose of for the purpose of destruction. The proceedings in any case in which the juvenile court record is destroyed or released to the person who is the subject of the record pursuant to this section shall be deemed never to have occurred, and the person may reply accordingly to any inquiry about the events in the case.

(b) If an individual whose juvenile court record has been destroyed or released under subdivision (a) discovers that any other agency still retains a record, the individual may file a petition with

the court requesting that the records be destroyed. The petition will include the name of the agency and the type of record to be destroyed. The court shall order that such records also be destroyed unless for good cause the court determines to the contrary. The court shall send a copy of the order to each agency and each agency shall destroy records in its custody as directed by the order, and shall advise the court of its compliance. The court shall then destroy the copy of the petition, the order, and the notice of compliance from each agency. Thereafter, the proceedings in such case shall be deemed never to have occurred.

(c) Juvenile court records in juvenile traffic matters, which include all records and papers, any minute book entries, dockets and judgment dockets, may be destroyed after five years from the date on which the jurisdiction of the juvenile court over a minor is terminated, or when the minor reaches the age of 21 years, if the person was alleged or adjudged to be a person described by Section 601. Prior to such destruction the original record may be microfilmed or photocopied. Every such reproduction shall be deemed and considered an original; and a transcript, exemplification or certified copy of any such reproduction shall be deemed and considered a transcript, exemplification or certified copy, as the case may be, of the original.

SEC. 3. (a) Section 1.2 of this bill incorporates amendments to Section 781 of the Welfare and Institutions Code proposed by both this bill and Section 13 of AB 560. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) this bill and Section 13 of AB 560 both are operative to amend Section 781 of the Welfare and Institutions Code, (3) SB 1792 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 560, in which case Sections 1, 1.3, 1.4, 1.5, and 1.6 of this bill shall not become operative.

(b) Section 1.3 of this bill incorporates amendments to Section 781 of the Welfare and Institutions Code proposed by both this bill and Section 13.5 of AB 560. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) this bill and Section 13.5 of AB 560 both are operative to amend Section 781 of the Welfare and Institutions Code, (3) SB 1792 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 560, in which case Sections 1, 1.2, 1.4, 1.5, and 1.6 of this bill shall not become operative.

(c) Section 1.4 of this bill incorporates amendments to Section 781 of the Welfare and Institutions Code proposed by both this bill and SB 1792. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) each bill amends Section 781 of the Welfare and Institutions Code, (3) AB 560 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1792, in which case Sections 1, 1.2, 1.3, 1.5, and 1.6 of this bill shall not become operative.

(d) Section 1.5 of this bill incorporates amendments to Section 781

of the Welfare and Institutions Code proposed by this bill, Section 13 of AB 560, and SB 1792. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1995, (2) this bill, SB 1792, and Section 13 of AB 560 are operative to amend Section 781 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 560 and SB 1792, in which case Sections 1, 1.2, 1.3, 1.4, and 1.6 of this bill shall not become operative.

(e) Section 1.6 of this bill incorporates amendments to Section 781 of the Welfare and Institutions Code proposed by this bill, Section 13.5 of AB 560, and SB 1792. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1995, (2) this bill, SB 1792, and Section 13.5 of AB 560 are operative to amend Section 781 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 560 and SB 1792, in which case Sections 1, 1.2, 1.3, 1.4, and 1.5 of this bill shall not become operative.

CHAPTER 836

An act to amend Sections 656, 659, 700, 729.6, and 731.1 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 656 of the Welfare and Institutions Code is amended to read:

656. A petition to commence proceedings in the juvenile court to declare a minor a ward of the court shall be verified and shall contain all of the following:

(a) The name of the court to which it is addressed.

(b) The title of the proceeding.

(c) The code section and subdivision under which the proceedings are instituted.

(d) The name, age, and address, if any, of the minor upon whose behalf the petition is brought.

(e) The names and residence addresses, if known to petitioner, of both of the parents and any guardian of the minor. If there is no parent or guardian residing within the state, or if his or her place of residence is not known to petitioner, the petition shall also contain the name and residence address, if known, of any adult relative residing within the county, or, if there are none, the adult relative residing nearest to the location of the court.

(f) A concise statement of facts, separately stated, to support the conclusion that the minor upon whose behalf the petition is being brought is a person within the definition of each of the sections and subdivisions under which the proceedings are being instituted.

(g) The fact that the minor upon whose behalf the petition is brought is detained in custody or is not detained in custody, and if he or she is detained in custody, the date and the precise time the minor was taken into custody.

(h) A notice to the father, mother, spouse, or other person liable for support of the minor child, that: (1) Section 903 may make that person, the estate of that person, and the estate of the minor child, liable for the cost of the care, support, and maintenance of the minor child in any county institution or any other place in which the child is placed, detained, or committed pursuant to an order of the juvenile court; (2) Section 903.1 may make that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of legal services rendered to the minor by a private attorney or a public defender appointed pursuant to the order of the juvenile court; (3) Section 903.2 may make that person, the estate of that person, and the estate of the minor child, liable for the cost to the county of the probation supervision of the minor child by the probation officer pursuant to the order of the juvenile court; and (4) the liabilities established by these sections are joint and several.

(i) In a proceeding alleging that the minor comes within Section 601, notice to the parent, guardian, or other person having control or charge of the minor that failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting as a municipal court judge. In those cases, the petition shall also include notice that the parent, guardian, or other person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure.

(j) If a proceeding is pending against a minor child for a violation of Section 640.5 or 640.6 of the Penal Code, a notice to the parent or legal guardian of the minor that if the minor is found to have violated either or both of these provisions that (1) any community service which may be required of the minor may be performed in the presence, and under the direct supervision, of the parent or legal guardian pursuant to either or both of these provisions; and (2) if the minor is personally unable to pay any fine levied for the violation of either or both of these provisions, that the parent or legal guardian of the minor shall be liable for payment of the fine pursuant to those sections.

(k) A notice to the parent or guardian of the minor that if the minor is ordered to make restitution to the victim pursuant to Section 729.6 or 731.1, the parent or guardian may be liable for the payment of restitution.

SEC. 2. Section 659 of the Welfare and Institutions Code is amended to read:

659. The notice shall contain all of the following:

(a) The name and address of the person to whom the notice is

directed.

(b) The date, time, and place of the hearing on the petition.

(c) The name of the minor upon whose behalf the petition has been brought.

(d) Each section and subdivision under which the proceeding has been instituted.

(e) A statement that the minor and his or her parent or guardian or adult relative, as the case may be, to whom notice is required to be given, are entitled to have an attorney present at the hearing on the petition, and that, if the parent or guardian or the adult relative is indigent and cannot afford an attorney, and the minor or his or her parent or guardian or the adult relative desires to be represented by an attorney, the parent or guardian or adult relative shall promptly notify the clerk of the juvenile court, and that in the event counsel or legal assistance is furnished by the court, the parent or guardian or adult relative shall be liable to the county, to the extent of his, her, or their financial ability, for all or a portion of the cost thereof.

(f) A statement that the parent or parents or responsible relative or guardian may be liable for the costs of support of the minor in a county institution.

(g) A statement that the parent or guardian of the minor may be liable for the payment of restitution if the minor is ordered to make restitution to the victim.

SEC. 3. Section 700 of the Welfare and Institutions Code is amended to read:

700. At the beginning of the hearing on a petition filed pursuant to Article 16 (commencing with Section 650) of this chapter, the judge or clerk shall first read the petition to those present and upon request of the minor upon whose behalf the petition has been brought or upon the request of any parent, relative or guardian, the judge shall explain any term of allegation contained therein and the nature of the hearing, its procedures, and possible consequences. The judge shall advise those present that if the petition or petitions are sustained and the minor is ordered to make restitution to the victim, the parent or guardian may be liable for the payment of restitution. The judge shall ascertain whether the minor and his or her parent or guardian or adult relative, as the case may be, has been informed of the right of the minor to be represented by counsel, and if not, the judge shall advise the minor and such a person, if present, of the right to have counsel present and where applicable, of the right to appointed counsel. The court shall appoint counsel to represent the minor if he or she appears at the hearing without counsel, whether he or she is unable to afford counsel or not, unless there is an intelligent waiver of the right of counsel by the minor; and, in the absence of such a waiver, if the parent or guardian does not furnish counsel and the court determines that the parent or guardian has the ability to pay for counsel, the court shall appoint counsel at the expense of the parent or guardian. The court shall continue the hearing for not to exceed seven days, as necessary to make an

appointment of counsel, or to enable counsel to acquaint himself or herself with the case, or to determine whether the parent or guardian or adult relative is unable to afford counsel at his or her own expense, and shall continue the hearing as necessary to provide reasonable opportunity for the minor and the parent or guardian or adult relative to prepare for the hearing.

SEC. 4. Section 729.6 of the Welfare and Institutions Code is amended to read:

729.6. (a) If a minor is found to be a person described in Section 602, the court shall require as a condition of probation, that the minor make restitution as follows:

(1) To the victim, if the crime involved a victim. For purposes of this section, "victim" shall include the immediate surviving family of the actual victim in homicide cases. Payments shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

(2) To the Restitution Fund, if the crime did not involve a victim.

(b) If the court finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons why restitution should not be required as provided in subdivision (a), the court shall require, as a condition of probation, that the minor perform specified community services.

(c) The court may avoid imposing the requirement of community service as a condition of probation only if it finds, and states its reasons for the finding on the record, that there are compelling and extraordinary reasons not to require community service in addition to its finding as to why restitution pursuant to subdivision (a) should not be required.

(d) For purposes of paragraph (1) of subdivision (a), "restitution" means full or partial payment for the value of stolen or damaged property, medical expenses, and wages or profits lost due to injury or to time spent as a witness or in assisting the police or prosecution, which losses were caused by the minor as a result of committing the offense for which he or she was found to be a person described in Section 602. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible. Restitution collected pursuant to this section shall be credited to any other judgments obtained by the victim against the minor arising out of the offense for which the minor was found to be a person described in Section 602.

(e) A restitution order imposed pursuant to this section shall identify the losses to which it pertains, and may be enforced in a manner provided for the enforcement of money judgments.

(f) In a case where the minor is ordered to make restitution to the victim pursuant to this section or Section 731.1, a parent or guardian who has joint or sole legal and physical custody and control of the minor shall be rebuttably presumed to be jointly and severally liable with the minor in accordance with Sections 1714.1 and 1714.3 of the

Civil Code for the amount of restitution so ordered, up to the limits provided in those sections subject to the court's consideration of the financial resources of the parent or guardian, and the parent or guardian shall have the burden to disprove the existence of that liability by showing by a preponderance of the evidence that the parent or guardian was either not given notice of potential liability for payment of restitution prior to the petition being sustained by an admission or adjudication, or that he or she was not present during the proceedings wherein the petition was sustained either by admission or adjudication and any hearings thereafter related to restitution.

(g) The victim in whose favor the restitution order has been made shall be notified within 60 days after restitution has been ordered of all of the following:

(1) The name and address of the minor ordered to make restitution.

(2) The amount and any terms or conditions of restitution.

(3) The offense or offenses that were sustained.

(4) The name and address of the parent or guardian of the minor.

(5) That the parent or guardian may be rebuttably presumed to be jointly and severally liable with the minor for the amount of restitution so ordered in accordance with Sections 1714.1 and 1714.3 of the Civil Code, up to the limits provided in those sections, and that the parent or guardian has the burden to disprove the existence of that liability by showing by a preponderance of the evidence that the parent or guardian was either not given notice of potential liability for payment of restitution prior to the petition being sustained by an admission or adjudication, or that he or she was not present during the proceedings wherein the petition was sustained by an admission or adjudication and any hearings thereafter related to restitution.

(6) Whether or not the notice and presence requirements of paragraph (5) were met.

(7) That the victim has a right to a certified copy of the order reflecting the information specified in this subdivision.

(h) Upon request, the victim has a right to a certified copy of the order reflecting the information specified in subdivision (g).

(i) For purposes of paragraph (2) of subdivision (a), the amount of restitution to be paid to the Restitution Fund shall be set at the discretion of the court and commensurate with the seriousness of the offense; but shall not be less than one hundred dollars ($100), subject to the defendant's ability to pay, and shall not exceed one thousand dollars ($1,000) if the person is found to have committed a felony; and shall not exceed one hundred dollars ($100) if the person is found to have committed a misdemeanor.

(j) Nothing in this section shall be construed to limit the authority of the court to grant or deny probation or provide conditions of probation.

SEC. 5. Section 731.1 of the Welfare and Institutions Code is amended to read:

731.1. (a) When a minor is committed to the Youth Authority, in lieu of imposing all or a portion of the restitution fine required by Section 730.6, the court shall order restitution to be paid to the victim in cases in which the victim has suffered economic loss as a result of the minor's criminal conduct. For purposes of this section, "victim" shall include the immediate surviving family of the actual victim in homicide cases. For purposes of this section, "restitution" means payment described in subdivision (d) of Section 729.6.

(b) A restitution order imposed pursuant to this section shall identify the losses to which it pertains and may be enforced in a manner provided for the enforcement of money judgments. The making of a restitution order pursuant to this section shall not affect the right of a victim to recovery from the Restitution Fund as provided by law, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this section shall be credited to any other judgments obtained by the victim against the minor arising out of the offense for which the minor was found to be a person described in Section 602.

(c) In a case where the minor is ordered to make restitution to the victim pursuant to this section or Section 729.1, a parent or guardian who has joint or sole legal and physical custody and control of the minor shall be rebuttably presumed to be jointly and severally liable with the minor in accordance with Sections 1714.1 and 1714.3 of the Civil Code for the amount of restitution so ordered, up to the limits provided in those sections, and the parent or guardian shall have the burden to disprove the existence of that liability by showing by a preponderance of the evidence that the parent or guardian was either not given notice of potential liability for payment of restitution prior to the petition being sustained by an admission or adjudication, or that he or she was present during the proceedings wherein the petition was sustained either by admission or adjudication and any hearings thereafter related to restitution.

(d) The probation officer shall notify the victim in whose favor the order has been made within 60 days after restitution has been ordered, of the information specified in subdivision (g) of Section 729.6.

(e) If the victim so requests, the probation officer shall furnish to the victim a certified copy of the order reflecting the information specified in subdivision (g) of Section 729.6.

(f) If the court finds that there are compelling and extraordinary reasons, the court may waive imposition of restitution. When such a waiver is granted, the court shall state on the record all reasons supporting the waiver.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for

reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 837

An act to amend Sections 11301, 11302, 11313, 11321, 11340, 11344, 11350, 11400, and 11411 of, and to add Sections 11315, 11319, 11327, 11328, and 11352 to, the Business and Professions Code, relating to real estate.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 11301 of the Business and Professions Code is amended to read:

11301. There is hereby created within the Business, Transportation and Housing Agency an Office of Real Estate Appraisers to administer and enforce this part.

SEC. 2. Section 11302 of the Business and Professions Code is amended to read:

11302. For the purpose of applying this part, the following terms, unless otherwise expressly indicated, shall mean and have the following definitions:

(a) "Agency" means the Business, Transportation and Housing Agency.

(b) "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion in a federally related transaction as to the market value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

The term "appraisal" does not include an opinion given by a real estate licensee or engineer or land surveyor in the ordinary course of his or her business in connection with a function for which a license is required under Chapter 7 (commencing with Section 6700) or Chapter 15 (commencing with Section 8700) of Division 3, or Chapter 3 (commencing with Section 10130) or Chapter 7 (commencing with Section 10500) and the opinion shall not be referred to as an appraisal. This part does not apply to a probate referee acting pursuant to Sections 400 to 408, inclusive, of the Probate Code unless the appraised transaction is federally related.

(c) "Appraisal Foundation" means the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on

November 30, 1987.

(d) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(e) "Certificate" means a certificate issued by the office authorizing the person to whom it is issued to act within this state as a state certified real estate appraiser.

(f) "Certification" means the procedures and requirements a person shall comply with in order to qualify for issuance of a certificate and includes the issuance of the certificate.

(g) "Committee" means the Real Estate Appraisers' Advisory Committee.

(h) "Director" means the Director of the Office of Real Estate Appraisers.

(i) "Federal financial institutions regulatory agency" means the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, Federal Home Loan Bank System, National Credit Union Administration, the Resolution Trust Corporation, and any other agency determined by the director to have jurisdiction over transactions subject to this part.

(j) "Federally related real estate appraisal activity" means the act or process of making or performing an appraisal on real estate or real property in a federally related transaction and preparing an appraisal as a result of that activity.

(k) "Federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency engages in, contracts for or regulates and which requires the services of a state licensed real estate appraiser or state certified real estate appraiser regulated by this part. This term also includes any transaction identified as such by a federal financial institutions regulatory agency.

(*l*) "License" means a license issued by the office authorizing the person to whom it is issued to act within this state as a state licensed real estate appraiser.

(m) "Licensure" means the procedures and requirements a person shall comply with in order to qualify for issuance of a license and includes the issuance of the license.

(n) "Office" means the Office of Real Estate Appraisers.

(o) "Secretary" means the Secretary of the Business, Transportation and Housing Agency.

(p) "State certified real estate appraiser" is a person who holds a current valid certificate issued to him or her under this part to perform, make, or approve and sign an appraisal. A state certified real estate appraiser may use the abbreviation SCREA in his or her real property appraisal business.

(q) "State licensed real estate appraiser" is a person who is issued and holds a current valid license under this part to perform, make, or approve and sign an appraisal. A state licensed real estate

appraiser may use the abbreviation SLREA in his or her real property appraisal business.

(r) "Uniform Standards of Professional Appraisal Practice" are the standards of professional appraisal practice established by the Appraisal Foundation.

SEC. 3. Section 11313 of the Business and Professions Code is amended to read:

11313. The office is under the supervision and control of the secretary. The duty of enforcing and administering this part is vested in the director and he or she is responsible to the secretary therefor. The director shall adopt and enforce rules and regulations as are determined reasonably necessary to carry out the purposes of this part. Those rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 11315 is added to the Business and Professions Code, to read:

11315. (a) The director may issue to a state licensed real estate appraiser, or a state certified real estate appraiser, a citation that may contain an order to pay an administrative fine assessed by the office if the appraiser is in violation of this part or any regulations adopted to carry out its purposes.

(b) A citation shall be written and describe with particularity the nature of the violation, including a specific reference to the provision of law determined to have been violated.

(c) If appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.

(d) In no event shall the administrative fine assessed by the office exceed ten thousand dollars ($10,000) per incident. In assessing a fine, the office shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the state licensed real estate appraiser or state certified real estate appraiser, and the history of previous violations.

(e) A citation or fine assessment issued pursuant to a citation shall inform the state licensed real estate appraiser or state certified real estate appraiser that, if he or she desires a hearing to contest the finding of a violation, he or she must request a hearing by written notice to the office within 30 days of the date of issuance of the citation or assessment. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) (1) Failure of a state licensed real estate appraiser or state certified real estate appraiser to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, shall result in disciplinary action by the office. If a state licensed real estate appraiser or state certified real estate appraiser fails to pay a fine within 30 days, the director shall charge him or her interest and a penalty of 10 percent of the fine amount. Interest shall be charged

at the pooled money investment rate.

(2) If a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license or certificate. A license or certificate shall not be renewed prior to payment of the renewal fee and fine.

(g) A citation may be issued without the assessment of an administrative fine.

(h) Administrative fines collected pursuant to this section shall be deposited in the Administration Account of the Real Estate Appraisers Regulation Fund.

SEC. 5. Section 11319 is added to the Business and Professions Code, to read:

11319. Notwithstanding any other provision of this code, the Uniform Standards of Professional Appraisal Practice constitute the minimum standard of conduct and performance for a state licensed real estate appraiser or state certified real estate appraiser in any work or service performed that is addressed by those standards. If a state licensed real estate appraiser or state certified real estate appraiser also is certified by the Board of Equalization, he or she shall follow the standards established by the Board of Equalization when fulfilling his or her responsibilities for assessment purposes.

SEC. 6. Section 11321 of the Business and Professions Code is amended to read:

11321. (a) No person other than a state licensed real estate appraiser or state certified real estate appraiser may assume or use that title or any title, designation, or abbreviation likely to create the impression of state licensure or certification as a real estate appraiser in this state.

(b) No person other than a state licensed real estate appraiser or state certified real estate appraiser may sign an appraisal. A trainee licensed pursuant to Section 11327 may sign an appraisal if it is also signed by either a state licensed real estate appraiser or a state certified real estate appraiser.

SEC. 7. Section 11327 is added to the Business and Professions Code, to read:

11327. The director shall adopt regulations governing the process and procedure of applying for a trainee license, which shall meet, at a minimum, the requirements of the Appraisal Foundation.

SEC. 8. Section 11328 is added to the Business and Professions Code, to read:

11328. To substantiate documentation of appraisal experience, or to facilitate the investigation of illegal or unethical activities by a state licensed real estate appraiser or state certified real estate appraiser, the appraiser shall, upon the request of the director, submit copies of appraisals, or any work product which is addressed by the Uniform Standards of Professional Appraisal Practice, and all supporting documentation and data to the office. This material shall be confidential in accordance with the confidentiality provisions of Uniform Standards of Professional Appraisal Practice.

SEC. 9. Section 11340 of the Business and Professions Code is amended to read:

11340. The director shall adopt regulations governing the process and the procedure of applying for a real estate appraiser license and real estate appraiser certificate which shall include, but not be limited to, necessary experience or education, equivalency, and minimum requirements of the Appraisal Foundation, if any.

(a) For purposes of the educational background requirements established under this section, the director shall grant credits for any courses taken on real estate appraisal ethics or practices pursuant to Section 10153.2, or which are deemed by the director to meet standards established pursuant to this part and federal law.

(b) For the purpose of implementing and applying this section, the director shall, with the advice and assistance of the committee, prescribe by regulation "equivalent courses" and "equivalent experience." The experience of employees of an assessor's office or of the State Board of Equalization in setting forth opinions of value of real property for tax purposes shall be deemed equivalent to experience in federally related real estate appraisal activity. Notwithstanding any other law, a holder of a valid real estate broker license shall be deemed to have completed appraisal license application experience requirements upon proof that he or she has accumulated 1,000 hours of experience in the valuation of real property.

(c) The director shall adopt regulations governing the process of applying for certification as a state certified real estate appraiser which shall meet, at a minimum, the requirements and standards established by the Appraisal Foundation, the Resolution Trust Corporation, and the federal financial institutions regulatory agencies acting pursuant to Section 1112 of the Financial Institutions Reform Recovery and Enforcement Act of 1989, Public Law 101-73 (FIRREA). The director shall, by regulation, require the application for a real estate appraiser license and real estate appraiser certificate to include the applicant's social security number.

(d) In evaluating the experience of any applicant for licensure, regardless of the number of hours required of that applicant, the director shall apply the same standards to the experience of all applicants.

(e) No license or certificate shall be issued to an applicant who is less than 18 years of age.

SEC. 10. Section 11344 of the Business and Professions Code is amended to read:

11344. (a) Notwithstanding Sections 11341 and 11342, a temporary license or a temporary certificate may be issued pending the outcome of the fingerprint check. A temporary license or temporary certificate is valid for up to 120 days. A temporary license or temporary certificate may be renewed once at the discretion of the director.

(b) The director may issue a probationary license or certificate as

follows:

(1) By term.

(2) By conditions to be observed in the exercise of the privileges granted.

SEC. 11. Section 11350 of the Business and Professions Code is amended to read:

11350. The director shall adopt regulations governing the process and procedure of applying for reciprocity, which shall meet, at a minimum, the requirements of the Appraisal Subcommittee.

SEC. 12. Section 11352 is added to the Business and Professions Code, to read:

11352. The director shall adopt regulations governing the process and procedure of applying for temporary practice, which shall meet, at a minimum, the requirements of the Appraisal Subcommittee.

SEC. 13. Section 11400 of the Business and Professions Code is amended to read:

11400. (a) Initial application fees, including examination fees, shall be paid to the office at the time of application.

(b) All issuance-related fees shall be paid to the office at the time the issuance application is submitted to the office.

(c) All fees shall be paid by cashier's check, certified check, money order, or government purchase order. In addition, the office may accept personal checks or credit cards for the payment of fees. All fees shall be deemed earned by the office upon receipt and are refundable at the discretion of the director.

SEC. 14. Section 11411 of the Business and Professions Code is amended to read:

11411. There shall be separate accounts in the Real Estate Appraisers Regulation Fund for purposes of administration and for purposes of recovery. These accounts shall be known respectively as the Administration Account and the Recovery Account. On and after January 1, 1996, five percent of the amount of any license or certificate fee collected under this part shall be credited to the Recovery Account. The Recovery Account is a continuing appropriation for carrying out this chapter.

CHAPTER 838

An act to amend Section 6254.4 of the Government Code, and to amend Section 1808.4 of the Vehicle Code, relating to public records.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 6254.4 of the Government Code is amended to read:

6254.4. (a) The home address, telephone number, occupation, precinct number, and prior registration information shown on the voter registration card for the following persons is confidential if the person requests confidentiality of that information at the time of registration or reregistration and shall not be disclosed to any person except pursuant to Section 615 of the Elections Code:

(1) Any active or retired judge, magistrate, or court commissioner.

(2) Any active or retired district attorney, assistant district attorney, or deputy district attorney.

(3) Any active or retired public defender or assistant public defender or public defender investigator.

(4) Any active or retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(5) Any employee of a city police department or county sheriff's office.

(6) Any active or retired city parking enforcement officer engaged in the enforcement of the Vehicle Code or municipal parking ordinances.

(7) The spouse or children of any person included in paragraphs (1) to (6), inclusive, who are living with that person.

(b) Confidentiality granted under this section shall apply only to records prepared or generated on or after the date that the voter is granted confidentiality.

(c) A person who requests confidentiality of the information specified in subdivision (a) shall register or reregister to vote by means of a confidential affidavit of registration form which shall be prescribed by the Secretary of State and which shall be attested to under penalty of perjury by the affiant that he or she is a person entitled to confidential treatment pursuant to this section.

(d) The disclosure of the home address or telephone number of a peace officer, as specified in paragraph (4) of subdivision (a), an employee of a city police department or county sheriff's office, or the spouse or children of these persons who live with these persons by any person or public entity in violation of subdivision (a) is a misdemeanor. A violation of this subdivision that results in bodily injury to the peace officer, employee of the city police department or county sheriff's office, or the spouse or children of these persons is a felony.

(e) For purposes of this section, "home address" means only street address and does not include an individual's city or post office address.

SEC. 2. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. (a) The home address of any of the following persons, that appears in any record of the department, is confidential, if the person requests the confidentiality of that information:

(1) Attorney General.

(2) State public defender.

(3) Members of the Legislature.

(4) Judges or court commissioners.
(5) District attorneys.
(6) Public defenders.
(7) Attorneys employed by the Department of Justice, the office of the State Public Defender, or a county office of the district attorney or public defender.
(8) City attorneys and attorneys who submit verification from their public employer that they represent the city in matters that routinely place them in personal contact with persons under investigation for, charged with, or convicted of, committing criminal acts, if those attorneys are employed by city attorneys.
(9) Nonsworn police dispatchers.
(10) Child abuse investigators or social workers, working in child protective services within a social services department.
(11) Active or retired peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.
(12) Employees of the Department of Corrections, the Department of the Youth Authority, or the Prison Industry Authority specified in Sections 20017.77 and 20017.79 of the Government Code.
(13) Nonsworn employees of a city police department, a county sheriff's office, the Department of the California Highway Patrol, federal, state, and local detention facilities, and local juvenile halls, camps, ranches, and homes, who submit agency verification that, in the normal course of their employment, they control or supervise inmates or are required to have a prisoner in their care or custody.
(14) County counsels assigned to child abuse cases.
(15) Investigators employed by the Department of Justice, a county district attorney, or a county public defender.
(16) Members of a city council.
(17) Members of a board of supervisors.
(18) Federal prosecutors and criminal investigators and National Park Service Rangers working in this state.
(19) Any active or retired city enforcement officer engaged in the enforcement of the Vehicle Code or municipal parking ordinances.
(20) The spouse or children of persons listed in this section, regardless of the spouse's or child's place of residence.
(b) The confidential home address of any of the persons listed in subdivision (a) shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department.
(c) Any record of the department containing a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The home address shall be withheld from public inspection for three years following termination of office or employment except with respect to retired peace officers, whose home addresses shall be withheld from public inspection

permanently upon request of confidentiality at the time the information would otherwise be opened. The department shall inform any person who requests a confidential home address what agency the individual whose address was requested is employed by or the court at which the judge or court commissioner presides.

(d) A violation of subdivision (a) by the disclosure of the confidential home address of a peace officer, as specified in paragraph (11) of subdivision (a), a nonsworn employee of the city police department or county sheriff's office, or the spouse or children of these persons that results in bodily injury to the peace officer, employee of the city police department or county sheriff's office, or the spouse or children of these persons is a felony.

SEC. 3. Section 1 of this bill shall not become operative if (1) this bill and SB 1518 are both chaptered, (2) SB 1518 repeals and adds Section 6254.4 of the Government Code, and (3) this bill is chaptered last.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 839

An act to amend Sections 17039 and 23036 of the Revenue and Taxation Code, relating to business development, to take effect immediately, tax levy.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 17039 of the Revenue and Taxation Code is amended to read:

17039. (a) Notwithstanding any provision in this part to the contrary, for the purposes of computing tax credits, the term "net tax" means the tax imposed under either Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to lump-sum distributions) less the credits allowed by Section 17054 (relating to personal exemption credits) and any amount imposed under

paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560. Notwithstanding the preceding sentence, the "net tax" shall not be less than the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions), if any. Credits shall be allowed against "net tax" in the following order:

(1) Credits that do not contain carryover or refundable provisions, except those described in paragraphs (4) and (5).

(2) Credits that contain carryover provisions but do not contain refundable provisions.

(3) Credits that contain both carryover and refundable provisions.

(4) The minimum tax credit allowed by Section 17063 (relating to the alternative minimum tax).

(5) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(6) Credits that contain refundable provisions but do not contain carryover provisions.

The order within each paragraph shall be determined by the Franchise Tax Board.

(b) Notwithstanding the provisions of Sections 17053.5 (relating to the renter's credit), 17061 (relating to refunds pursuant to the Unemployment Insurance Code), and 19002 (relating to tax withholding), the credits provided in those sections shall be allowed in the order provided in paragraph (6) of subdivision (a).

(c) (1) Notwithstanding any other provision of this part, no tax credit shall reduce the tax imposed under Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions) below the tentative minimum tax, as defined by Section 17062, except the following credits, but only after allowance of the credit allowed by Section 17063—

(A) The credit allowed by former Section 17052.4 (relating to solar energy).

(B) The credit allowed by former Section 17052.5 (relating to solar energy).

(C) The credit allowed by Section 17052.5 (relating to solar energy).

(D) The credit allowed by Section 17052.12 (relating to research expenses).

(E) The credit allowed by Section 17052.13 (relating to sales and use tax credit).

(F) The credit allowed by Section 17052.15 (relating to Los Angeles Revitalization Zone sales tax credit).

(G) The credit allowed by Section 17053.5 (relating to the renter's credit).

(H) The credit allowed by Section 17053.8 (relating to enterprise zone hiring credit).

(I) The credit allowed by Section 17053.10 (relating to Los Angeles Revitalization Zone hiring credit).

(J) The credit allowed by Section 17053.11 (relating to program

area hiring credit).

(K) For each taxable year beginning on or after January 1, 1994, the credit allowed by Section 17053.17 (relating to Los Angeles Revitalization Zone hiring credit).

(L) The credit allowed by Section 17053.49 (relating to qualified property).

(M) The credit allowed by Section 17057 (relating to clinical testing expenses).

(N) The credit allowed by Section 17058 (relating to low-income housing).

(O) The credit allowed by Section 17061 (relating to refunds pursuant to the Unemployment Insurance Code).

(P) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(Q) The credit allowed by Section 19002 (relating to tax withholding).

(2) Any credit which is partially or totally denied under paragraph (1) shall be allowed to be carried over and applied to the net tax in succeeding taxable years, if the provisions relating to that credit include a provision to allow a carryover when that credit exceeds the net tax.

(d) Unless otherwise provided, any remaining carryover of a credit allowed by a section that has been repealed or made inoperative shall continue to be allowed to be carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.

(e) (1) Unless otherwise provided, if two or more taxpayers (other than husband and wife) share in costs that would be eligible for a tax credit allowed under this part, each taxpayer shall be eligible to receive the tax credit in proportion to his or her respective share of the costs paid or incurred.

(2) In the case of a partnership, the credit may be divided among the partners pursuant to a written partnership agreement in accordance with Section 704 of the Internal Revenue Code, relating to partner's distributive share.

(3) In the case of a husband and wife who file separate returns, the credit may be taken by either or equally divided between them.

SEC. 2. Section 23036 of the Revenue and Taxation Code is amended to read:

23036. (a) (1) The term "tax" includes any of the following:

(A) The tax imposed under Chapter 2 (commencing with Section 23101).

(B) The tax imposed under Chapter 3 (commencing with Section 23501).

(C) The tax on unrelated business taxable income, imposed under Section 23731.

(D) The tax on S corporations imposed under Section 23802.

(2) The term "tax" does not include any amount imposed under paragraph (1) of subdivision (e) of Section 24667 or paragraph (2)

of subdivision (f) of Section 24667.

(b) For purposes of Article 5 (commencing with Section 18661) of Chapter 2, Article 3 (commencing with Section 19031) of Chapter 4, Article 6 (commencing with Section 19101) of Chapter 4, and Chapter 7 (commencing with Section 19501) of Part 10.2, and for purposes of Sections 18601, 19001, and 19005, the term "tax" shall also include all of the following:

(1) The tax on limited partnerships, imposed under Section 23081.

(2) The alternative minimum tax imposed under Chapter 2.5 (commencing with Section 23400).

(3) The tax on built-in gains of S corporations, imposed under Section 23809.

(4) The tax on excess passive investment income of S corporations, imposed under Section 23811.

(c) Notwithstanding any other provision of this part, credits shall be allowed against the "tax" in the following order:

(1) Credits which do not contain carryover provisions.

(2) Credits which, when the credit exceeds the "tax," allow the excess to be carried over to offset the "tax" in succeeding taxable years. The order of credits within this paragraph shall be determined by the Franchise Tax Board.

(3) The minimum tax credit allowed by Section 23453.

(4) Credits for taxes withheld under Section 18662.

(d) Notwithstanding any other provision of this part, each of the following shall be applicable:

(1) No credit shall reduce the "tax" below the tentative minimum tax (as defined by paragraph (1) of subdivision (a) of Section 23455), except the following credits, but only after allowance of the credit allowed by Section 23453—

(A) The credit allowed by former Section 23601 (relating to solar energy).

(B) The credit allowed by former Section 23601.4 (relating to solar energy).

(C) The credit allowed by Section 23601.5 (relating to solar energy).

(D) The credit allowed by Section 23609 (relating to research expenditures).

(E) The credit allowed by Section 23609.5 (relating to clinical testing expenses).

(F) The credit allowed by Section 23610.5 (relating to low-income housing).

(G) The credit allowed by Section 23612 (relating to sales and use tax credit).

(H) The credit allowed by Section 23612.6 (relating to Los Angeles Revitalization Zone sales tax credit).

(I) The credit allowed by Section 23622 (relating to enterprise zone hiring credit).

(J) The credit allowed by Section 23623 (relating to program area hiring credit).

(K) For each income year beginning on or after January 1, 1994, the credit allowed by Section 23623.5 (relating to Los Angeles Revitalization Zone hiring credit).

(L) The credit allowed by Section 23625 (relating to Los Angeles Revitalization Zone hiring credit).

(M) The credit allowed by Section 23649 (relating to qualified property).

(N) Credits for taxes withheld under Section 18662.

(2) No credit against the tax shall reduce the minimum franchise tax imposed under Chapter 2 (commencing with Section 23101).

(e) Any credit which is partially or totally denied under subdivision (d) shall be allowed to be carried over to reduce the "tax" in the following year, and succeeding years if necessary, if the provisions relating to that credit include a provision to allow a carryover of the unused portion of that credit.

(f) Unless otherwise provided, any remaining carryover from a credit that has been repealed or made inoperative shall continue to be allowed to be carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.

(g) Unless otherwise provided, if two or more taxpayers share in costs that would be eligible for a tax credit allowed under this part, each taxpayer shall be eligible to receive the tax credit in proportion to its respective share of the costs paid or incurred.

SEC. 2.3. Section 23036 of the Revenue and Taxation Code is amended to read:

23036. (a) (1) The term "tax" includes any of the following:

(A) The tax imposed under Chapter 2 (commencing with Section 23101).

(B) The tax imposed under Chapter 3 (commencing with Section 23501).

(C) The tax on unrelated business taxable income, imposed under Section 23731.

(D) The tax on S corporations imposed under Sections 23802 and 23812.

(2) The term "tax" does not include any amount imposed under paragraph (1) of subdivision (e) of Section 24667 or paragraph (2) of subdivision (f) of Section 24667.

(b) For purposes of Article 5 (commencing with Section 18661) of Chapter 2, Article 3 (commencing with Section 19031) of Chapter 4, Article 6 (commencing with Section 19101) of Chapter 4, and Chapter 7 (commencing with Section 19501) of Part 10.2, and for purposes of Sections 18601, 19001, and 19005, the term "tax" shall also include all of the following:

(1) The tax on limited partnerships, imposed under Section 23081.

(2) The alternative minimum tax imposed under Chapter 2.5 (commencing with Section 23400).

(3) The tax on built-in gains of S corporations, imposed under Section 23809.

(4) The tax on excess passive investment income of S corporations, imposed under Section 23811.

(c) Notwithstanding any other provision of this part, credits shall be allowed against the "tax" in the following order:

(1) Credits which do not contain carryover provisions.

(2) Credits which, when the credit exceeds the "tax," allow the excess to be carried over to offset the "tax" in succeeding taxable years. The order of credits within this paragraph shall be determined by the Franchise Tax Board.

(3) The minimum tax credit allowed by Section 23453.

(4) Credits for taxes withheld under Section 18662.

(d) Notwithstanding any other provision of this part, each of the following shall be applicable:

(1) No credit shall reduce the "tax" below the tentative minimum tax (as defined by paragraph (1) of subdivision (a) of Section 23455), except the following credits, but only after allowance of the credit allowed by Section 23453—

(A) The credit allowed by former Section 23601 (relating to solar energy).

(B) The credit allowed by former Section 23601.4 (relating to solar energy).

(C) The credit allowed by Section 23601.5 (relating to solar energy).

(D) The credit allowed by Section 23609 (relating to research expenditures).

(E) The credit allowed by Section 23609.5 (relating to clinical testing expenses).

(F) The credit allowed by Section 23610.5 (relating to low-income housing).

(G) The credit allowed by Section 23612 (relating to sales and use tax credit).

(H) The credit allowed by Section 23612.6 (relating to Los Angeles Revitalization Zone sales tax credit).

(I) The credit allowed by Section 23622 (relating to enterprise zone hiring credit).

(J) The credit allowed by Section 23623 (relating to program area hiring credit).

(K) For each income year beginning on or after January 1, 1994, the credit allowed by Section 23623.5 (relating to Los Angeles Revitalization Zone hiring credit).

(L) The credit allowed by Section 23625 (relating to Los Angeles Revitalization Zone hiring credit).

(M) The credit allowed by Section 23649 (relating to qualified property).

(N) Credits for taxes withheld under Section 18662.

(2) No credit against the tax shall reduce the minimum franchise tax imposed under Chapter 2 (commencing with Section 23101).

(e) Any credit which is partially or totally denied under subdivision (d) shall be allowed to be carried over to reduce the

"tax" in the following year, and succeeding years if necessary, if the provisions relating to that credit include a provision to allow a carryover of the unused portion of that credit.

(f) Unless otherwise provided, any remaining carryover from a credit that has been repealed or made inoperative shall continue to be allowed to be carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.

(g) Unless otherwise provided, if two or more taxpayers share in costs that would be eligible for a tax credit allowed under this part, each taxpayer shall be eligible to receive the tax credit in proportion to its respective share of the costs paid or incurred.

SEC. 2.5. Section 23036 of the Revenue and Taxation Code is amended to read:

23036. (a) (1) The term "tax" includes any of the following:

(A) The tax imposed under Chapter 2 (commencing with Section 23101).

(B) The tax imposed under Chapter 3 (commencing with Section 23501).

(C) The tax on unrelated business taxable income, imposed under Section 23731.

(D) The tax on S corporations imposed under Section 23802.

(2) The term "tax" does not include any amount imposed under paragraph (1) of subdivision (e) of Section 24667 or paragraph (2) of subdivision (f) of Section 24667.

(b) For purposes of Article 5 (commencing with Section 18661) of Chapter 2, Article 3 (commencing with Section 19031) of Chapter 4, Article 6 (commencing with Section 19101) of Chapter 4, and Chapter 7 (commencing with Section 19501) of Part 10.2, and for purposes of Sections 18601, 19001, and 19005, the term "tax" shall also include all of the following:

(1) The tax on limited partnerships, imposed under Section 23081, and the tax on limited liability companies, imposed under Section 23091.

(2) The alternative minimum tax imposed under Chapter 2.5 (commencing with Section 23400).

(3) The tax on built-in gains of S corporations, imposed under Section 23809.

(4) The tax on excess passive investment income of S corporations, imposed under Section 23811.

(c) Notwithstanding any other provision of this part, credits shall be allowed against the "tax" in the following order:

(1) Credits which do not contain carryover provisions.

(2) Credits which, when the credit exceeds the "tax," allow the excess to be carried over to offset the "tax" in succeeding taxable years. The order of credits within this paragraph shall be determined by the Franchise Tax Board.

(3) The minimum tax credit allowed by Section 23453.

(4) Credits for taxes withheld under Section 18662.

(d) Notwithstanding any other provision of this part, each of the following shall be applicable:

(1) No credit shall reduce the "tax" below the tentative minimum tax (as defined by paragraph (1) of subdivision (a) of Section 23455), except the following credits, but only after allowance of the credit allowed by Section 23453—

(A) The credit allowed by former Section 23601 (relating to solar energy).

(B) The credit allowed by former Section 23601.4 (relating to solar energy).

(C) The credit allowed by Section 23601.5 (relating to solar energy).

(D) The credit allowed by Section 23609 (relating to research expenditures).

(E) The credit allowed by Section 23609.5 (relating to clinical testing expenses).

(F) The credit allowed by Section 23610.5 (relating to low-income housing).

(G) The credit allowed by Section 23612 (relating to sales and use tax credit).

(H) The credit allowed by Section 23612.6 (relating to Los Angeles Revitalization Zone sales tax credit).

(I) The credit allowed by Section 23622 (relating to enterprise zone hiring credit).

(J) The credit allowed by Section 23623 (relating to program area hiring credit).

(K) For each income year beginning on or after January 1, 1994, the credit allowed by Section 23623.5 (relating to Los Angeles Revitalization Zone hiring credit).

(L) The credit allowed by Section 23625 (relating to Los Angeles Revitalization Zone hiring credit).

(M) The credit allowed by Section 23649 (relating to qualified property).

(2) No credit against the tax shall reduce the minimum franchise tax imposed under Chapter 2 (commencing with Section 23101).

(e) Any credit which is partially or totally denied under subdivision (d) shall be allowed to be carried over to reduce the "tax" in the following year, and succeeding years if necessary, if the provisions relating to that credit include a provision to allow a carryover of the unused portion of that credit.

(f) Unless otherwise provided, any remaining carryover from a credit that has been repealed or made inoperative shall continue to be allowed to be carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.

(g) Unless otherwise provided, if two or more taxpayers share in costs that would be eligible for a tax credit allowed under this part, each taxpayer shall be eligible to receive the tax credit in proportion to its respective share of the costs paid or incurred.

SEC. 2.7. Section 23036 of the Revenue and Taxation Code is amended to read:

23036. (a) (1) The term "tax" includes any of the following:

(A) The tax imposed under Chapter 2 (commencing with Section 23101).

(B) The tax imposed under Chapter 3 (commencing with Section 23501).

(C) The tax on unrelated business taxable income, imposed under Section 23731.

(D) The tax on S corporations imposed under Sections 23802 and 23812.

(2) The term "tax" does not include any amount imposed under paragraph (1) of subdivision (e) of Section 24667 or paragraph (2) of subdivision (f) of Section 24667.

(b) For purposes of Article 5 (commencing with Section 18661) of Chapter 2, Article 3 (commencing with Section 19031) of Chapter 4, Article 6 (commencing with Section 19101) of Chapter 4, and Chapter 7 (commencing with Section 19501) of Part 10.2, and for purposes of Sections 18601, 19001, and 19005, the term "tax" shall also include all of the following:

(1) The tax on limited partnerships, imposed under Section 23081, and the tax on limited liability companies, imposed under Section 23091.

(2) The alternative minimum tax imposed under Chapter 2.5 (commencing with Section 23400).

(3) The tax on built-in gains of S corporations, imposed under Section 23809.

(4) The tax on excess passive investment income of S corporations, imposed under Section 23811.

(c) Notwithstanding any other provision of this part, credits shall be allowed against the "tax" in the following order:

(1) Credits which do not contain carryover provisions.

(2) Credits which, when the credit exceeds the "tax," allow the excess to be carried over to offset the "tax" in succeeding taxable years. The order of credits within this paragraph shall be determined by the Franchise Tax Board.

(3) The minimum tax credit allowed by Section 23453.

(4) Credits for taxes withheld under Section 18662.

(d) Notwithstanding any other provision of this part, each of the following shall be applicable:

(1) No credit shall reduce the "tax" below the tentative minimum tax (as defined by paragraph (1) of subdivision (a) of Section 23455), except the following credits, but only after allowance of the credit allowed by Section 23453—

(A) The credit allowed by former Section 23601 (relating to solar energy).

(B) The credit allowed by former Section 23601.4 (relating to solar energy).

(C) The credit allowed by Section 23601.5 (relating to solar

energy).

(D) The credit allowed by Section 23609 (relating to research expenditures).

(E) The credit allowed by Section 23609.5 (relating to clinical testing expenses).

(F) The credit allowed by Section 23610.5 (relating to low-income housing).

(G) The credit allowed by Section 23612 (relating to sales and use tax credit).

(H) The credit allowed by Section 23612.6 (relating to Los Angeles Revitalization Zone sales tax credit).

(I) The credit allowed by Section 23622 (relating to enterprise zone hiring credit).

(J) The credit allowed by Section 23623 (relating to program area hiring credit).

(K) For each income year beginning on or after January 1, 1994, the credit allowed by Section 23623.5 (relating to Los Angeles Revitalization Zone hiring credit).

(L) The credit allowed by Section 23625 (relating to Los Angeles Revitalization Zone hiring credit).

(M) The credit allowed by Section 23649 (relating to qualified property).

(2) No credit against the tax shall reduce the minimum franchise tax imposed under Chapter 2 (commencing with Section 23101).

(e) Any credit which is partially or totally denied under subdivision (d) shall be allowed to be carried over to reduce the "tax" in the following year, and succeeding years if necessary, if the provisions relating to that credit include a provision to allow a carryover of the unused portion of that credit.

(f) Unless otherwise provided, any remaining carryover from a credit that has been repealed or made inoperative shall continue to be allowed to be carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.

(g) Unless otherwise provided, if two or more taxpayers share in costs that would be eligible for a tax credit allowed under this part, each taxpayer shall be eligible to receive the tax credit in proportion to its respective share of the costs paid or incurred.

SEC. 3. (a) Section 2.3 of this bill incorporates amendments to Section 23036 of the Revenue and Taxation Code proposed by both this bill and AB 73. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) each bill amends Section 23036 of the Revenue and Taxation Code, (3) SB 469 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 73, in which case Section 23036 of the Revenue and Taxation Code, as amended by AB 73, shall remain operative only until the operative date of this bill, at which time Section 2.3 of this bill shall become operative, and Sections 2, 2.5, and 2.7 of this bill shall not become operative.

(b) Section 2.5 of this bill incorporates amendments to Section 23036 of the Revenue and Taxation Code proposed by both this bill and SB 469. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) each bill amends Section 23036 of the Revenue and Taxation Code, (3) AB 73 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 469, in which case Section 23036 of the Revenue and Taxation Code as amended by SB 469 shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Sections 2, 2.3, and 2.7 of this bill shall not become operative.

(c) Section 2.7 of this bill incorporates amendments to Section 23036 of the Revenue and Taxation Code proposed by this bill, AB 73, and SB 469. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1995, (2) all three bills amend Section 23036 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 73 and SB 469, in which case Section 23036 of the Revenue and Taxation Code, as amended by either AB 73 or SB 469, shall remain operative only until the operative date of this bill, at which time Section 2.7 of this bill shall become operative, and Sections 2, 2.3, and 2.5 of this bill shall not become operative.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 840

An act to amend Sections 10020, 33511, 33595, 35275, 39002, 41375, 41380, 42127.8, 44704, 44785, 45355, 49411, 51262, 51778, 51791, 52033, 52204, 54021, 56462, and 58557 of, and to repeal Sections 22326, 33124, 33132, 33519, 44564, 44670.8, 47615, 48342, 48342.5, 48803, 51910, 51912, 52112, 52347, 52385, and 60249 of, the Education Code, relating to education.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. (a) The Legislature finds and declares the following:

(1) The annotated version of the Education Code is currently 11 volumes. According to the California Law Revision Commission, the Education Code is about one-twelfth the total body of California statutory law. It contains numerous reporting provisions that may be in conflict, are unnecessary, or may be of marginal use.

(2) Efforts spent on reporting contribute to the administrative costs and detract from the educational mission of state and local

agencies.

(3) According to the California Law Revision Commission, the last complete reorganization of the Education Code was done in 1976. In 1986, legislation was enacted that directed the Legislative Analyst to contract with a private individual or organization to conduct a study to identify those sections in the Education Code that were inconsistent, ambiguous, obsolete, or otherwise inappropriate. This study was completed in August 1986, and based on its recommendations, subsequent legislation was carried to remove the obsolete provisions identified in the study.

(b) It is the intent of the Legislature, in light of budget restraints facing state agencies, county offices of education, and school districts, to eliminate all reporting provisions from the Education Code that are not vital to maintaining the fiscal health, or the oversight of fiscal health, of agencies delivering educational services, or are not vital to the primary mission of those agencies.

SEC. 2. Section 10020 of the Education Code is amended to read:

10020. Nothing in this chapter shall be construed as preventing school districts from hiring, employing, or otherwise using teacher aides, instructional aides, or teacher-assistants under the terms of existing law and financial support formulas. The commission may study the various roles of such paraprofessionals.

Public and private colleges, universities, and community colleges may develop cooperative programs with school districts or school governing boards to place undergraduate and graduate students in public and private classrooms as teacher aides or assistants. Such assignment may be, at the discretion of the institution, the basis for securing college credit.

A certificate to serve as a temporary teacher-assistant shall be issued, by the county superintendent of schools of the county in which service is to be rendered, to the holder of a recommendation from an accredited college, university, or community college. The certificate shall authorize the holder to serve as a teacher-assistant. No such certificate shall be granted for a period exceeding two years.

The teacher-assistant certificate shall not be used in lieu of a teaching credential. The holder of such a certificate shall work under the immediate supervision of a credentialed classroom teacher to whom the teacher-assistant is assigned, who shall be present in the classroom while the teacher-assistant is performing his or her classroom duties or who shall be available at all times to provide guidance and direction to the teacher-assistant.

SEC. 3. Section 22326 of the Education Code is repealed.

SEC. 4. Section 33124 of the Education Code is repealed.

SEC. 5. Section 33132 of the Education Code is repealed.

SEC. 6. Section 33511 of the Education Code is amended to read:

33511. The commission may do all of the following:

(a) Advise the state educational agency on the preparation of, and policy matters arising in the administration of, the state plan, including the development of criteria for the distribution of funds

and the approval of applications for assistance under Title IV.

(b) Assist the State Board of Education and the Department of Education in the planning, development, and improvement of educational programs.

(c) Evaluate all programs and projects assisted under Title IV.

SEC. 7. Section 33519 of the Education Code is repealed.

SEC. 8. Section 33595 of the Education Code is amended to read:

33595. (a) The commission shall study and provide assistance and advice to the State Board of Education, the Superintendent of Public Instruction, the Legislature, and the Governor in new or continuing areas of research, program development, and evaluation in special education.

(b) Commission requests shall be transmitted by letter from the commission chairperson to the president of the State Board of Education. Each communication shall be placed on the agenda of the next forthcoming state board meeting in accordance with the announced annual state board agenda cutoff dates. Following the state board meeting, the commission shall be notified by the state board as to what action has been taken on each request. Commission requests shall also be transmitted by letter from the commission chairperson to the Superintendent of Public Instruction, the Governor, and to appropriate Members of the Legislature.

SEC. 9. Section 35275 of the Education Code is amended to read:

35275. The governing board of any school district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new school facilities and schoolsites or major additions to existing school facilities and recreation and park facilities in the community.

SEC. 10. Section 39002 of the Education Code is amended to read:

39002. The governing board of a school district, prior to acquiring any site on which it proposes to construct any school building as defined in Section 39141 shall have the site, or sites, under consideration investigated by competent personnel to ensure that the final site selection is determined by an evaluation of all factors affecting the public interest and is not limited to selection on the basis of raw land cost only. If the prospective schoolsite is located within the boundaries of any special studies zone or within an area designated as geologically hazardous in the safety element of the local general plan as provided in subdivision (g) of Section 65302 of the Government Code, the investigation shall include any geological and soil engineering studies by competent personnel needed to provide an assessment of the nature of the site and potential for earthquake or other geologic hazard damage.

The geological and soil engineering studies of the site shall be of such a nature as will preclude siting of a school in any location where the geological and site characteristics are such that the construction effort required to make the school building safe for occupancy is economically unfeasible. No studies are required to be made if the

site or sites under consideration have been the subject of adequate prior studies. The evaluation shall also include location of the site with respect to population, transportation, water supply, waste disposal facilities, utilities, traffic hazards, surface drainage conditions, and other factors affecting the operating costs, as well as the initial costs, of the total project.

For the purposes of this article, a special studies zone is an area which is identified as a special studies zone on any map, or maps, compiled by the State Geologist pursuant to Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code.

SEC. 11. Section 41375 of the Education Code is amended to read:

41375. It is the intent and purpose of the Legislature to encourage, by every means possible, the reduction of class sizes and the ratio of pupils to teachers in all grade levels in the public schools, and to urge every effort to this end to be undertaken by the local school administrative authorities.

SEC. 12. Section 41380 of the Education Code is amended to read:

41380. The Covina Valley Unified School District may conduct an experimental kindergarten program pursuant to this section.

The provisions of Section 45342, of subdivision (a) of Section 45347, and of Sections 41378 are not applicable to the experimental kindergarten program which may be conducted by the Covina Valley Unified School District in three schools which has been approved by the Superintendent of Public Instruction.

SEC. 13. Section 42127.8 of the Education Code is amended to read:

42127.8. (a) The governing board provided for in subdivision (b) shall establish a unit to be known as the County Office Fiscal Crisis and Management Assistance Team. The team shall consist of persons having extensive experience in school district budgeting, accounting, data processing, risk management, food services, pupil transportation, purchasing and warehousing, facilities maintenance and operation, personnel administration, organization, and staffing. The Superintendent of Public Instruction may appoint one employee of the State Department of Education to serve on the unit. The unit shall be operated under the immediate direction of an appropriate county office of education selected jointly, in response to an application process, by the superintendent and the Secretary of Child Development and Education.

(b) The unit established under subdivision (a) shall be selected and governed by an eleven-member governing board consisting of one representative chosen by the California Association of County Superintendents of Schools from each of the 10 county service regions designated by the association, and one representative from the state department chosen by the superintendent.

(c) The superintendent may request the unit to provide the assistance described in subdivision (b) of Section 1624, Section 1630, subdivision (b) of Section 42127.3, subdivision (c) of Section 42127.6,

and Section 42127.9, and to review the fiscal and administrative condition of any county office of education.

(d) In addition to the functions described in subdivision (c), the unit shall provide management assistance at the request of any school district or county office of education. Each district or county office of education receiving that assistance shall be required to pay the onsite personnel costs and travel costs incurred by the unit for that purpose, pursuant to rates determined by the governing board established under subdivision (b). The governing board annually shall distribute rate information to each school district and county office of education.

(e) The governing board shall reserve not less than 25 percent, nor more than 50 percent, of its revenues each year for expenditure for the costs of contracts and professional services as management assistance to school districts or county offices of education in which the board determines a fiscal emergency to exist.

(f) The governing board established under subdivision (b) may levy an annual assessment against each county office of education that elects to participate under this section in an amount not to exceed twenty cents ($0.20) per unit of total average daily attendance for all school districts within the county. The revenues collected pursuant to that assessment shall be applied to the expenses of the unit.

(g) The governing board established under subdivision (b) may pay to the state department, from any available funds, a reasonable amount to reimburse the state department for actual administrative expenses incurred in the review of the budgets and fiscal conditions of school districts and county offices of education.

(h) When employed as a fiscal adviser by the state department pursuant to Section 1630, employees of the unit established pursuant to subdivision (a) shall be considered employees of the state department for purposes of errors and omissions liability insurance.

SEC. 14. Section 44564 of the Education Code is repealed.

SEC. 15. Section 44670.8 of the Education Code is repealed.

SEC. 16. Section 44704 of the Education Code is amended to read:

44704. (a) It is the intent of the Legislature that the Budget Act for each fiscal year appropriate funds for purposes of this chapter in an amount equal to 5 percent of the number of permanent full-time teachers, exclusive of teachers in adult education, child care and development, and regional occupational centers and programs, multiplied by two thousand dollars ($2,000).

(b) The Superintendent of Public Instruction shall compute each fiscal year for each school district, an entitlement equal to 5 percent of the number of permanent, full-time teachers, exclusive of teachers in adult education, child care and development, and regional occupational centers and programs, multiplied by two thousand dollars ($2,000). The superintendent shall apportion to each school district from funds appropriated for the purposes of this chapter in that fiscal year, the amount certified by the governing board

pursuant to Section 44703, but not in excess of the district's entitlement.

In the event that, in any fiscal year, sufficient funds are not appropriated to fully fund each school district requesting apportionments for purposes of this chapter, the superintendent shall reduce each district's apportionment on a pro rata basis.

SEC. 17. Section 44785 of the Education Code is amended to read:

44785. The Legislature recognizes that evaluation of the project, which may be accomplished by such methods as teacher attitude surveys and pretesting and posttesting of the international skills and knowledge of the students reached by the program, can serve as a useful tool for self-assessment and improvement of the resource centers.

Each resource center shall conduct an annual evaluation to measure the international skills of students reached by the site program, the attitudes of project site participants toward the effectiveness of the project, the rate of participation by teachers, the application by teachers of training materials and techniques to instructional purposes, the dissemination of training materials and techniques to other teachers, and other information the site directors deem appropriate.

SEC. 18. Section 45355 of the Education Code is amended to read:

45355. The Department of Finance shall determine the amount of the examination fee that would be sufficient to generate the revenues necessary to maintain and administer the examination described in Section 45350.

SEC. 19. Section 47615 of the Education Code is repealed.

SEC. 20. Section 48342 of the Education Code is repealed.

SEC. 21. Section 48342.5 of the Education Code is repealed.

SEC. 22. Section 48803 of the Education Code is repealed.

SEC. 23. Section 49411 of the Education Code is amended to read:

49411. (a) The State Department of Education, in cooperation with the Division of Occupational Safety and Health within the Department of Industrial Relations, shall formulate a listing of chemical compounds used in school programs that includes the potential hazards and estimated shelf life of each compound.

(b) The Superintendent of Public Instruction, in cooperation with the Division of Occupational Safety and Health within the Department of Industrial Relations, shall develop guidelines for school districts for the regular removal and disposal of all chemicals whose estimated shelf life has elapsed.

(c) The county superintendent of schools may implement a system for disposing of chemicals from schools within the county or may permit school districts to arrange for the disposal of the chemicals.

SEC. 24. Section 51262 of the Education Code is amended to read:

51262. The Legislature hereby finds and declares that the use of anabolic steroids to expedite the physical development and to enhance the performance level of secondary school athletes presents

a serious health hazard to these student athletes. It is the intent of the Legislature in enacting this measure that, beginning with the 1987–88 school year, schools be encouraged to include in instruction in grades 7 to 12, inclusive, in science, health, drug abuse, or physical education programs a lesson on the effects of the use of anabolic steroids.

SEC. 25. Section 51778 of the Education Code is amended to read:

51778. (a) The Superintendent of Public Instruction shall establish a Work Experience Education Consortia Steering Committee comprised of certificated representatives of consortia of school districts established under this article. The steering committee, in consultation with the superintendent, utilizing applicable program standards and regulations regarding work experience education programs shall develop all of the following materials:

(1) Program quality indicators.

(2) Training materials.

(3) Guide books.

(4) Program review reports.

(b) The Work Experience Education Consortia Steering Committee shall contract with appropriate personnel to conduct in-service training programs for work experience education teachers and coordinators who will be conducting schoolsite reviews of work experience education programs. The training shall include, but is not necessarily limited to, all of the following:

(1) A program quality review instrument.

(2) The compliance review instrument developed by the department.

(3) Reporting and review materials.

(4) Program review methodologies.

(5) The preparation of summary reports.

Only persons who have been certified by the steering committee as having completed the training program shall be eligible to conduct work experience education program quality reviews.

(c) Utilizing the compliance review instrument described in paragraph (2) of subdivision (b), the advisory committee shall recommend a followup review for schools that have not met a prescribed number of the work experience education compliance criteria. The followup review required by this subdivision shall be conducted within one year of the initial review.

SEC. 26. Section 51791 of the Education Code is amended to read:

51791. The governing board of each district is encouraged to develop aims and purposes of aviation education designed to include: (a) integration of appropriate aviation concepts throughout the elementary school with units of instruction in science, social studies, and arithmetic; (b) aviation experiences in junior high schools in the areas of social studies, science, and arithmetic; and (c) elective courses in senior high schools and four-year high schools including air transportation, vocational training, economic, social and political

implications of aviation, the science of flight, history of aviation, and flight experience where appropriate airports, planes, and pilots are available, and the need for this instruction is indicated.

SEC. 27. Section 51910 of the Education Code is repealed.

SEC. 28. Section 51912 of the Education Code is repealed.

SEC. 29. Section 52033 of the Education Code is amended to read:

52033. Any district governing board, on behalf of a schoolsite council, may request the State Board of Education to grant a waiver of any provision of this code if such waiver is necessary or beneficial to the successful implementation of a school improvement plan. Waivers may not be granted of any of the following: Sections 41000 to 41360, inclusive; Sections 41420 to 41423, inclusive; Sections 41600 to 41854, inclusive; Sections 41920 to 42850, inclusive; Article 3 (commencing with Section 44930) of Chapter 4 of Part 25, Part 26 (commencing with Section 46000) and Chapter 6 (commencing with Section 48900) and Chapter 6.5 (commencing with Section 49060) of Part 27; or Title 5 of the California Administrative Code, except Title 5 regulations adopted pursuant to Article 3 (commencing with Section 44930) of Chapter 4 of Part 25. The State Board of Education may grant any such request when the facts indicate the failure to do so would hinder the implementation or maintenance of a successful school improvement program. Such action shall be taken not later than the second regular meeting of the State Board of Education following receipt of a waiver request or the request for a waiver shall be deemed approved. In the event the request for a waiver is denied, the reasons for the denial shall be communicated without delay to the applicant district and school. The district governing board may request a single waiver of a provision of this code on behalf of more than one school in the district. Such waiver shall apply only to the applicant school or schools.

SEC. 30. Section 52112 of the Education Code is repealed.

SEC. 31. Section 52204 of the Education Code is amended to read:

52204. Any school district governing board that provided a mentally gifted minor program in the 1978–79 school year may elect to provide a program for gifted and talented pupils pursuant to this chapter, subject to Section 52211.

SEC. 32. Section 52347 of the Education Code is repealed.

SEC. 33. Section 52385 of the Education Code is repealed.

SEC. 34. Section 54021 of the Education Code is amended to read:

54021. The Legislature finds that in order to allow districts sufficient time to plan for programs authorized pursuant to this chapter, notification of entitlements shall be made to districts several months prior to actual disbursement of funds. The Legislature, therefore, shall announce its intent to appropriate funds for this chapter at least one year in advance of the normal budgetary appropriation process.

The Superintendent of Public Instruction shall calculate district entitlements for any fiscal year by June 15 of the prior fiscal year utilizing the latest information available at that time and assuming

the appropriation announced by the Legislature will be available for the fiscal year in question. The Superintendent of Public Instruction shall notify districts of their expected entitlements no later than July 1 of that fiscal year.

This section shall become operative for calculation of district entitlements for the 1979–80 fiscal year, and shall be utilized in calculation of entitlements for every fiscal year thereafter.

SEC. 35. Section 56462 of the Education Code is amended to read:

56462. The transition services shall include, but not be limited to, the following:

(a) In-service training programs, resource materials, and handbooks that identify the following:

(1) The definition of "transition," including the major components of an effective school-based transition program.

(2) Relevant laws and regulations.

(3) The roles of other agencies in the transition process including, but not limited to, the scope of their services, eligibility criteria, and funding.

(4) The components of effective transition planning.

(5) The role of families in the individualized transition process.

(6) Resources and model programs currently available in this state.

(b) Development of the role and responsibilities of special education in the transition process, including the following:

(1) The provision of work skills training, including those skills that are necessary in order to exhibit competence on the job.

(2) The provision of multiple employment options and facilitating job or career choice by providing a variety of vocational experiences.

(3) The collection and analysis of data on what happens to pupils once they leave the school system and enter the adult world.

(4) The coordination of the transition planning process, including development of necessary interagency agreements and procedures at both state and local levels.

(5) The provision of instructional learning strategies that will assist pupils who find learning difficult in acquiring skills that will enable them to obtain diplomas, promote a positive attitude toward secondary and postsecondary education and training, and make a successful transition to postsecondary life.

(c) The development and implementation of systematic and longitudinal vocational education curriculum including the following:

(1) Instructional strategies that will prepare pupils with severe disabilities to make a successful transition to supported employment and the community.

(2) The introduction of vocational and career education curriculum in the elementary grades for those pupils who can benefit from it.

(d) Materials, resource manuals, and in-service training programs to support the active participation of families in the planning and

implementation of transition-related goals and activities.

(e) The development of resources and in-service training that will support the implementation of individualized transition planning for all pupils with exceptional needs.

(f) The development of a network of model demonstration sites that illustrate a wide variety of transition models and implementation strategies.

(g) Coordination with other specialized programs that serve students who face barriers to successful transition.

(h) A research, evaluation, and dissemination program that will support the major programmatic aspects of transition services. Through a variety of competitive grants, bids, contracts, and other awards specific content areas will be developed in cooperation with a variety of field-based agencies, including local education agencies, special education local plan areas, county offices, institutions of higher education, and in-service training agencies.

SEC. 36. Section 58557 of the Education Code is amended to read:

58557. (a) A certified educational clinic shall not charge any fee for services provided under this chapter for which the clinic receives reimbursement to any pupil or to the parent, guardian, or custodian of any pupil.

(b) Nothing in this chapter shall be construed to prohibit a certified educational clinic from accepting donations from private entities, including foundations, corporations, and individuals, to supplement any other funds received by the educational clinic.

SEC. 37. Section 60249 of the Education Code is repealed.

SEC. 38. Any section of any act enacted by the Legislature during the 1994 calendar year that takes effect on or before January 1, 1995, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section amended or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

CHAPTER 841

An act to amend Sections 548, 549, and 801.5 of, and to amend, repeal, and add Section 550 of, the Penal Code, relating to crimes.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 548 of the Penal Code is amended to read:

548. (a) Every person who willfully injures, destroys, secretes, abandons, or disposes of any property which at the time is insured against loss or damage by theft, or embezzlement, or any casualty with intent to defraud or prejudice the insurer, whether the

property is the property or in the possession of such person or any other person, is punishable by imprisonment in the state prison for two, three, or five years and by a fine not exceeding fifty thousand dollars ($50,000).

For purposes of this section, "casualty" does not include fire.

(b) Any person who violates subdivision (a) and who has a prior conviction of the offense set forth in that subdivision, in Section 550 of this code, or in former Section 556 or former Section 1871.1 of the Insurance Code, shall receive a two-year enhancement for each prior conviction in addition to the sentence provided under subdivision (a). The existence of any fact which would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 2. Section 549 of the Penal Code is amended to read:

549. Any firm, corporation, partnership, or association, or any person acting in his or her individual capacity, or in his or her capacity as a public or private employee, who solicits, accepts, or refers any business to or from any individual or entity with the knowledge that, or with reckless disregard for whether, the individual or entity for or from whom the solicitation or referral is made, or the individual or entity who is solicited or referred, intends to violate Section 550 of this code or Section 1871.4 of the Insurance Code is guilty of a crime, punishable upon a first conviction by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16 months, two years, or three years, or by a fine not exceeding ten thousand dollars ($10,000), or by both that fine and imprisonment. A second or subsequent conviction is punishable by imprisonment in the state prison.

SEC. 3. Section 550 of the Penal Code is amended to read:

550. (a) It is unlawful to do any of the following:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(2) Knowingly present multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(4) Knowingly present a false or fraudulent claim for the payments of a loss for theft, destruction, damage, or conversion of a motor vehicle, a motor vehicle part, or contents of a motor vehicle.

(5) Knowingly prepare, make, or subscribe any writing, with the intent to present or use it, or to allow it to be presented in support of any false or fraudulent claim.

(6) Knowingly assist, abet, solicit, or conspire with any person

described as follows:

(A) Any person who knowingly presents any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(B) Any person who knowingly presents multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(C) Any person who knowingly causes or participates in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(D) Any person who knowingly prepares, makes, or subscribes any writing, with the intent to present or use it, or to allow it to be presented in support on any claim.

(7) Knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit.

(8) Knowingly submit a claim for a health care benefit which was not used by, or on behalf of, the claimant.

(9) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud.

(10) Knowingly present for payment any undercharges for health care benefits on behalf of a specific claimant unless any known overcharges for health care benefits for that claimant are presented for reconciliation at that same time.

(11) For purposes of paragraphs (7) to (10), inclusive, a claim or a claim for payment of a health care benefit also means a claim or claim for payment submitted by or on the behalf of a provider of any workers' compensation health benefits under the Labor Code.

(b) (1) Every person who violates paragraph (1), (2), (3), (4), (5), or (6) of subdivision (a) shall be punished by imprisonment in the state prison for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine, unless the value of the fraud is fifty thousand dollars ($50,000) or more. Whenever the value of the fraud is fifty thousand dollars ($50,000) or more, the fine may be double the amount of the value of the fraud.

(2) Every person who violates paragraph (7), (8), (9), or (10) of subdivision (a) is guilty of a public offense.

(A) Where the claim or amount at issue exceeds four hundred dollars ($400), the offense is punishable by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine, unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed the value of the fraud, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(B) Where the claim or amount at issue is four hundred dollars ($400) or less, the offense is punishable by imprisonment in a county jail not to exceed six months, by a fine of not more than one thousand

dollars ($1,000), or by both that imprisonment and fine unless the aggregate amount of the claims or amount at issue exceeds four hundred dollars ($400) in any 12 consecutive month period, in which case the claims or amounts may be charged as in subparagraph (A).

(c) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who previously has been convicted of felony violations of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except where the existence of the fact was not admitted or found to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision shall not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) of, or Division 6 (commencing with Section 6000) of, the Welfare and Institutions Code.

(d) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision or in Section 548 shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision (b). The existence of any fact which would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(e) This section shall not be construed to preclude the applicability of any other provision of criminal law that applies or may apply to any transaction.

(f) Any person who violates any provision of subdivision (a) shall be liable, in addition to any other penalty prescribed by law, for a civil penalty of up to five thousand dollars ($5,000) per claim or act, plus an assessment of not more than three times the amount of each claim for compensation submitted in violation of this section. The penalties provided for in this subdivision may be assessed and recovered in a civil action brought in the name of the people of the State of California by any district attorney, city attorney, or the Attorney General. Any civil penalty recovered shall be allocated as follows:

(1) If the action was brought by the Attorney General, 50 percent of the penalty collected shall be paid to the General Fund, and 50

percent of the penalty collected shall be paid to the Department of Insurance Fraud Account in the Insurance Fund.

(2) If the action was brought by a district attorney, 25 percent of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, 25 percent of the penalty collected shall be paid to the General Fund, and 50 percent of the penalty collected shall be paid to the Department of Insurance Fraud Account in the Insurance Fund.

(3) If the action was brought by a city attorney, 25 percent of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, 25 percent of the penalty collected shall be paid to the General Fund, and 50 percent of the penalty collected shall be paid to the Department of Insurance Fraud Account in the Insurance Fund.

(4) Moneys collected by the Department of Insurance pursuant to this subdivision shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund and shall be used solely for the investigation and prosecution of insurance fraud, as appropriated by the Legislature.

(g) This section shall remain operative only until January 1, 1999, and as of that date is repealed.

SEC. 3.5. Section 550 of the Penal Code is amended to read:

550. (a) It is unlawful to do any of the following:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(2) Knowingly present multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(4) Knowingly present a false or fraudulent claim for the payments of a loss for theft, destruction, damage, or conversion of a motor vehicle, a motor vehicle part, or contents of a motor vehicle.

(5) Knowingly prepare, make, or subscribe any writing, with the intent to present or use it, or to allow it to be presented in support of any false or fraudulent claim.

(6) Knowingly assist, abet, solicit, or conspire with any person described as follows:

(A) Any person who knowingly presents any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(B) Any person who knowingly presents multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(C) Any person who knowingly causes or participates in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(D) Any person who knowingly prepares, makes, or subscribes any writing, with the intent to present or use it, or to allow it to be presented in support on any false or fraudulent claim.

(7) Knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit.

(8) Knowingly submit a claim for a health care benefit which was not used by, or on behalf of, the claimant.

(9) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud.

(10) Knowingly present for payment any undercharges for health care benefits on behalf of a specific claimant unless any known overcharges for health care benefits for that claimant are presented for reconciliation at that same time.

(11) For purposes of paragraphs (7) to (10), inclusive, a claim or a claim for payment of a health care benefit also means a claim or claim for payment submitted by or on the behalf of a provider of any workers' compensation health benefits under the Labor Code.

(b) It is unlawful to do, or to knowingly assist or conspire with any person to do, any of the following:

(1) Present or cause to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.

(2) Prepare or make any written or oral statement that is intended to be presented to any insurer or any insurance claimant in connection with, or in support of or opposition to, any claim or payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.

(3) Conceal or knowingly fail to disclose the occurrence of an event that affects any person's initial or continued right or entitlement to any insurance benefit or payment, or the amount of any benefit or payment to which the person is entitled.

(4) Prepare or make any written or oral statement, intended to be presented to any insurer or producer for the purpose of obtaining a motor vehicle insurance policy, that the person to be the insured resides or is domiciled in this state when, in fact, that person resides or is domiciled in a state other than this state.

(c) (1) Every person who violates paragraph (1), (2), (3), (4), (5), or (6) of subdivision (a) is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years, and by a fine not exceeding fifty thousand dollars ($50,000), unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud.

(2) Every person who violates paragraph (7), (8), (9), or (10) of subdivision (a) is guilty of a public offense.

(A) Where the claim or amount at issue exceeds four hundred dollars ($400), the offense is punishable by imprisonment in the state

prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine, unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(B) Where the claim or amount at issue is four hundred dollars ($400) or less, the offense is punishable by imprisonment in a county jail not to exceed six months, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine unless the aggregate amount of the claims or amount at issue exceeds four hundred dollars ($400) in any 12 consecutive month period, in which case the claims or amounts may be charged as in subparagraph (A).

(3) Every person who violates paragraph (1), (2), (3), or (4) of subdivision (b) shall be punished by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud, by both that imprisonment and fine, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(d) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who previously has been convicted of felony violations of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except where the existence of the fact was not admitted or found to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision shall not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) of, or Division 6 (commencing with Section 6000) of, the Welfare and Institutions Code.

(e) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision or in Section 548 shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision (b). The existence of any fact which would subject a person to a penalty enhancement shall be alleged in the information or

indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(f) This section shall not be construed to preclude the applicability of any other provision of civil or criminal law that applies or may apply to any act committed or alleged to have been committed by a person.

(g) Any person who violates any provision of subdivision (a) shall be liable, in addition to any other penalty prescribed by law, for a civil penalty of up to five thousand dollars ($5,000) per claim or act, plus an assessment of not more than three times the amount of each claim for compensation submitted in violation of this section. The penalties provided for in this subdivision may be assessed and recovered in a civil action brought in the name of the people of the State of California by any district attorney, city attorney, or the Attorney General. Any civil penalty recovered shall be allocated as follows:

(1) If the action was brought by the Attorney General, 50 percent of the penalty collected shall be paid to the General Fund, and 50 percent of the penalty collected shall be paid to the Department of Insurance Fraud Account in the Insurance Fund.

(2) If the action was brought by a district attorney, 25 percent of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, 25 percent of the penalty collected shall be paid to the General Fund, and 50 percent of the penalty collected shall be paid to the Department of Insurance Fraud Account in the Insurance Fund.

(3) If the action was brought by a city attorney, 25 percent of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, 25 percent of the penalty collected shall be paid to the General Fund, and 50 percent of the penalty collected shall be paid to the Department of Insurance Fraud Account in the Insurance Fund.

(4) Moneys collected by the Department of Insurance pursuant to this subdivision shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund and shall be used solely for the investigation and prosecution of insurance fraud, as appropriated by the Legislature.

(h) This section shall remain operative only until January 1, 1999, and as of that date is repealed.

SEC. 4. Section 550 is added to the Penal Code, to read:

550. (a) It is unlawful to do any of the following:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(2) Knowingly present multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(4) Knowingly present a false or fraudulent claim for the payments of a loss for theft, destruction, damage, or conversion of a motor vehicle, a motor vehicle part, or contents of a motor vehicle.

(5) Knowingly prepare, make, or subscribe any writing, with the intent to present or use it, or to allow it to be presented in support of any false or fraudulent claim.

(6) Knowingly assist, abet, solicit, or conspire with any person described as follows:

(A) Any person who knowingly presents any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(B) Any person who knowingly presents multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(C) Any person who knowingly causes or participates in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(D) Any person who knowingly prepares, makes, or subscribes any writing, with the intent to present or use it, or to allow it to be presented in support on any claim.

(7) Knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit.

(8) Knowingly submit a claim for a health care benefit which was not used by, or on behalf of, the claimant.

(9) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud.

(10) Knowingly present for payment any undercharges for health care benefits on behalf of a specific claimant unless any known overcharges for health care benefits for that claimant are presented for reconciliation at that same time.

(11) For purposes of paragraphs (7) to (10), inclusive, a claim or a claim for payment of a health care benefit also means a claim or claim for payment submitted by or on the behalf of a provider of any workers' compensation health benefits under the Labor Code.

(b) (1) Every person who violates paragraph (1), (2), (3), (4), (5), or (6) of subdivision (a) shall be punished by imprisonment in the state prison for two, three, or five years, or by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine, unless the value of the fraud is fifty thousand dollars ($50,000) or more. Whenever the value of the fraud is fifty thousand dollars ($50,000) or more, the fine may be double the amount of the value of the fraud.

(2) Every person who violates paragraph (7), (8), (9), or (10) of subdivision (a) is guilty of a public offense.

(A) Where the claim or amount at issue exceeds four hundred dollars ($400), the offense is punishable by imprisonment in the state

prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine, unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed the value of the fraud, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(B) Where the claim or amount at issue is four hundred dollars ($400) or less, the offense is punishable by imprisonment in a county jail not to exceed six months, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine unless the aggregate amount of the claims or amount at issue exceeds four hundred dollars ($400) in any 12 consecutive month period, in which case the claims or amounts may be charged as in subparagraph (A).

(c) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who previously has been convicted of felony violations of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except where the existence of the fact was not admitted or found to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision shall not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) of, or Division 6 (commencing with Section 6000) of, the Welfare and Institutions Code.

(d) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision or in Section 548 shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision (b). The existence of any fact which would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(e) This section shall not be construed to preclude the applicability of any other provision of criminal law that applies or may apply to any transaction.

(f) This section shall become operative on January 1, 1999.

SEC. 4.5. Section 550 is added to the Penal Code, to read:

550. (a) It is unlawful to do any of the following:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(2) Knowingly present multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(4) Knowingly present a false or fraudulent claim for the payments of a loss for theft, destruction, damage, or conversion of a motor vehicle, a motor vehicle part, or contents of a motor vehicle.

(5) Knowingly prepare, make, or subscribe any writing, with the intent to present or use it, or to allow it to be presented in support of any false or fraudulent claim.

(6) Knowingly assist, abet, solicit, or conspire with any person described as follows:

(A) Any person who knowingly presents any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(B) Any person who knowingly presents multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(C) Any person who knowingly causes or participates in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(D) Any person who knowingly prepares, makes, or subscribes any writing, with the intent to present or use it, or to allow it to be presented in support on any false or fraudulent claim.

(7) Knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit.

(8) Knowingly submit a claim for a health care benefit which was not used by, or on behalf of, the claimant.

(9) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud.

(10) Knowingly present for payment any undercharges for health care benefits on behalf of a specific claimant unless any known overcharges for health care benefits for that claimant are presented for reconciliation at that same time.

(11) For purposes of paragraphs (7) to (10), inclusive, a claim or a claim for payment of a health care benefit also means a claim or claim for payment submitted by or on the behalf of a provider of any workers' compensation health benefits under the Labor Code.

(b) It is unlawful to do, or to knowingly assist or conspire with any person to do, any of the following:

(1) Present or cause to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the

statement contains any false or misleading information concerning any material fact.

(2) Prepare or make any written or oral statement that is intended to be presented to any insurer or any insurance claimant in connection with, or in support of or opposition to, any claim or payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.

(3) Conceal or knowingly fail to disclose the occurrence of an event that affects any person's initial or continued right or entitlement to any insurance benefit or payment, or the amount of any benefit or payment to which the person is entitled.

(4) Prepare or make any written or oral statement, intended to be presented to any insurer or producer for the purpose of obtaining a motor vehicle insurance policy, that the person to be the insured resides or is domiciled in this state when, in fact, that person resides or is domiciled in a state other than this state.

(c) (1) Every person who violates paragraph (1), (2), (3), (4), (5), or (6) of subdivision (a) is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years, and by a fine not exceeding fifty thousand dollars ($50,000), unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud.

(2) Every person who violates paragraph (7), (8), (9), or (10) of subdivision (a) is guilty of a public offense.

(A) Where the claim or amount at issue exceeds four hundred dollars ($400), the offense is punishable by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine, unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(B) Where the claim or amount at issue is four hundred dollars ($400) or less, the offense is punishable by imprisonment in a county jail not to exceed six months, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine unless the aggregate amount of the claims or amount at issue exceeds four hundred dollars ($400) in any 12 consecutive month period, in which case the claims or amounts may be charged as in subparagraph (A).

(3) Every person who violates paragraph (1), (2), (3), or (4) of subdivision (b) shall be punished by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud, by both that imprisonment and fine, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that

imprisonment and fine.

(d) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who previously has been convicted of felony violations of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except where the existence of the fact was not admitted or found to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision shall not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) of, or Division 6 (commencing with Section 6000) of, the Welfare and Institutions Code.

(e) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision or in Section 548 shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision (b). The existence of any fact which would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(f) This section shall not be construed to preclude the applicability of any other provision of civil or criminal law that applies or may apply to any act committed or alleged to have been committed by a person.

SEC. 5. Section 801.5 of the Penal Code is amended to read:

801.5. Notwithstanding Section 801 or any other provision of law, prosecution for a violation of Section 550 of this code or former Section 1871.1, or Section 187.4, of the Insurance Code shall be commenced within three years after discovery of the commission of the offense.

SEC. 6. Sections 3.5 and 4.5 incorporate amendments to Section 550 of the Penal Code proposed by both this bill and SB 1833. They shall only become operative if (1) both bills are enacted and become effective, (2) each bill amends Section 550 of the Penal Code, and (3) this bill is enacted after SB 1833, in which case Sections 3 and 4 of this bill shall not become operative.

CHAPTER 842

An act to add and repeal Section 21083.8 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. (a) The Legislature hereby declares its intent that, if there is sufficient federal funding available and an environmental impact statement for a military base reuse plan has not been prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) prior to the preparation of an environmental impact report pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), a state or local lead agency shall make reasonable and feasible efforts to prepare the environmental impact report jointly with the preparation of the environmental impact statement by the federal lead agency. If such a joint report and statement is not feasible, it is the intent of the Legislature that the state or local lead agency prepare an environmental impact report, but may utilize, pursuant to Section 21083.8 of the Public Resources Code, an environmental impact statement if one has been prepared.

(b) It is not the intent of the Legislature in enacting this act to prevent a local agency from utilizing other provisions of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that may be relevant.

SEC. 2. Section 21083.8 is added to the Public Resources Code, to read:

21083.8. (a) For the purposes of this section, the following terms have the following meaning:

(1) "Reuse plan" means an initial plan for the reuse of a military base adopted by a local government or a redevelopment agency in the form of a general plan, general plan amendment, specific plan, redevelopment plan, or other planning document.

(2) "Base" means any military base either closed by, or scheduled for closure by, the federal government.

(b) If an environmental impact statement on the closure and reuse of a military base has been prepared and filed pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.), the lead agency that is responsible for the preparation of an environmental impact report for a reuse plan for the same base may proceed in the following manner:

(1) A notice of the preparation of an environmental impact report on a reuse plan shall be prepared pursuant to either Section 21080.4

or 21080.6 and shall include a description of the reuse plan and a copy of the environmental impact statement. The notice shall indicate that the lead agency intends to utilize the environmental impact statement as a draft environmental impact report and that the lead agency requests comments on whether, and to what extent, the environmental impact statement provides adequate information to serve as a draft environmental impact report, and what specific additional information, if any, is necessary to comply with this division. The notice shall also indicate the address to which written comments may be sent and the deadline for submitting comments.

(2) Upon the close of the comment period on the notice of preparation, the lead agency may proceed with preparation of the environmental impact report on the reuse plan. The lead agency shall, to the greatest extent feasible, avoid duplication and utilize information in the environmental impact statement consistent with this division. The draft environmental impact report shall consist of all or part of the environmental impact statement and any additional information that is necessary to prepare a draft environmental impact report in compliance with this division.

(3) In all other respects, the environmental impact report for the reuse plan shall be completed in compliance with this division.

(c) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

SEC. 3. This act shall become operative only if Senate Bill 354 of the 1993–94 Regular Session of the Legislature is enacted and takes effect on or before January 1, 1995.

CHAPTER 843

An act to add Sections 51178.5 and 51189 to the Government Code, to amend Sections 13108.5 and 13132.7 of the Health and Safety Code, and to add Section 4205 to the Public Resources Code, relating to fire safety, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 51178.5 is added to the Government Code, to read:

51178.5. Within 30 days after receiving a transmittal from the director that identifies very high fire hazard severity zones, a local agency shall make the information available for public review. The information shall be presented in a format that is understandable and accessible to the general public, including, but not limited to, maps.

SEC. 2. Section 51189 is added to the Government Code, to read:

51189. (a) The Legislature finds and declares that space and structure defensibility is essential to diligent fire prevention. This defensibility extends beyond the vegetation management practices required by this chapter, and includes, but is not limited to, measures that increase the likelihood of a structure to withstand intrusion by fire, such as building design and construction requirements that use fire resistant building materials, and provide protection of structure projections, including porches, decks, balconies and eaves, and structure openings including attic and eave vents and windows.

(b) No later than July 1, 1996, the State Fire Marshal, in consultation with the Director of Forestry and Fire Protection, shall prepare and adopt a model ordinance that provides for comprehensive space and structure defensibility, including in very high fire severity zones.

(c) Upon adoption of the model ordinances, the State Fire Marshal shall transmit copies of the ordinance to the appropriate local agencies in every jurisdiction that contains a very high fire hazard severity zone, and to the Director of Forestry and Fire Protection.

(d) The State Fire Marshal shall make every feasible effort to obtain funds from federal, state, local, and other appropriate sources to assist in developing and preparing the model ordinance.

SEC. 3. Section 13108.5 of the Health and Safety Code is amended to read:

13108.5. The State Fire Marshal shall propose, and the State Building Standards Commission shall adopt, amend, and repeal regulations for openings into the attic areas of buildings in those fire hazard severity zones, including very high fire hazard severity zones, designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, and in very high fire hazard severity zones designated by a local agency pursuant to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code.

SEC. 4. Section 13132.7 of the Health and Safety Code is amended to read:

13132.7. (a) Within a very high fire hazard severity zone designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code and within a very high hazard severity zone designated by a local agency pursuant to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code, every new structure, and every existing structure when 50 percent or more of the total roof area is reroofed within any one-year period, shall have a fire retardant roof covering that is at least class B as defined in the Uniform Building Code, as adopted and amended by the State Building Standards Commission.

(b) On or after July 1, 1995, in all other areas, every new structure,

and every existing structure when 50 percent or more of the total roof area is reroofed within any one-year period, commencing any date on or after July 1, 1995, shall have a fire retardant roof covering that is at least class C as defined in the Uniform Building Code, as adopted and amended by the State Building Standards Commission.

(c) Notwithstanding subdivision (b), on or after July 1, 1995, within state responsibility areas classified by the Board of Forestry pursuant to Article 3 (commencing with Section 4125) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, except for those state responsibility areas designated as moderate fire hazard responsibility zones, every new structure, and every existing structure when 50 percent or more of the total roof area is reroofed within any one-year period commencing any date on or after July 1, 1995, shall have a fire retardant roof covering that is at least class B as defined in the Uniform Building Code, as adopted and amended by the State Building Standards Commission.

(d) (1) Notwithstanding subdivision (a), (b), or (c), on or after January 1, 1997, within very high fire hazard severity zones designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code or by a local agency pursuant to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code, every new structure, and every existing structure when 50 percent or more of the total roof area is reroofed within any one-year period commencing on any date on or after January 1, 1997, shall have a fire retardant roof covering that is at least class A as defined in the Uniform Building Code, as adopted and amended by the State Building Standards Commission.

(2) Paragraph (1) shall not apply to any jurisdiction containing a very high fire hazard severity zone if the jurisdiction fulfills both of the following requirements:

(A) Adopts the model ordinance approved by the State Fire Marshal pursuant to Section 51189 of the Government Code or an ordinance that substantially conforms to the model ordinance of the State Fire Marshal.

(B) Transmits, upon adoption, a copy of the ordinance to the State Fire Marshal.

(c) The State Building Standards Commission shall incorporate the requirements set forth in subdivisions (a), (b), and (c) by publishing them on January 1, 1995, as an amendment to the California Building Standards Code, commencing with the 1991 edition, in accordance with Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13.

(d) Nothing in this section shall limit the authority of a city, county, city and county, or fire protection district in establishing more restrictive requirements, in accordance with current law, than those specified in this section.

(e) This section shall not affect the validity of an ordinance,

adopted prior to the effective date for the relevant roofing standard specified in subdivisions (a) and (b), by a city, county, city and county, or fire protection district, unless the ordinance mandates a standard that is less stringent than the standards set forth in subdivision (a), in which case the ordinance shall not be valid on or after the effective date for the relevant roofing standard specified in subdivisions (a) and (b).

(f) Any qualified historical building or structure as defined in Section 18955 may, on a case-by-case basis, utilize alternative roof constructions as provided by the State Historical Building Code, that meet the same level of fire protection as described in paragraph (1) of subdivision (a).

(g) The installer of the roof covering shall provide certification of the roof covering classification to the building owner and, when requested, to the agency responsible for enforcement of this part. The installer shall also install the roof covering in accordance with the manufacturer's listing.

(h) Wood-roofing materials shall have passed a 10-year weather test and a rain test approved by a testing laboratory recognized by the State Fire Marshal.

SEC. 5. Section 4205 is added to the Public Resources Code, to read:

4205. The Director of Forestry and Fire Protection shall, not later than December 1, 1995, report to the appropriate committees of the Legislature on the impacts of designating very high fire hazard severity zones pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4, and Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code, including identifying and recommending how to reconcile any disparities between the different mapping programs.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 7. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Because of the damage and devastation caused by recent fires in California, and in order to, as soon as possible, reduce the risk of future fire disasters by requiring that fire retardant roof coverings be used on new structures and reroofed structures, it is necessary that this act take effect immediately.

CHAPTER 844

An act to amend Sections 8505.5, 8505.10, 8505.13, 8505.16, 8505.17, 8512, 8513, 8515, 8516, 8516.1, 8516.5, 8528, 8538, 8550, 8551.5, 8555, 8560, 8562, 8564, 8564.5, 8565, 8565.5, 8566, 8566.5, 8567, 8590, 8591, 8592, 8593, 8611, 8616, 8616.4, 8616.5, 8616.6, 8620, 8622, 8642, 8649, 8651, 8652, 8655, 8674, 8675, and 8690 of, to add Sections 8507.1, 8564.6, 8590.1, 8593.1, 8616.9, 8618, 8619, and 8665 to, and to repeal Section 8572 of, the Business and Professions Code, relating to structural pest control, and making an appropriation therefor.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 8505.5 of the Business and Professions Code is amended to read:

8505.5. If requested, notice of the date and place of fumigation shall be given to the fire department serving the area in which fumigation is to be performed not less than two hours prior to the time fumigation begins. The fire department shall not charge a fee exceeding twenty-five dollars ($25) for receipt of this notification.

If requested by the county agricultural commissioner, notice of each fumigation to be performed shall be given to the commissioner in the county in which the job is to be performed. The notice, which may be mailed or given by telephone, at the option of the commissioner, shall be given at least 24 hours prior to the time fumigation begins, unless the commissioner determines that less time is sufficient. No fee shall be assessed for processing the notice which may be requested by the commissioner.

SEC. 2. Section 8505.10 of the Business and Professions Code is amended to read:

8505.10. Warning signs shall be printed in red on white background and shall contain the following statement in letters not less than two inches in height: "DANGER—FUMIGATION." They shall also depict a skull and crossbones not less than one inch in height and shall state in letters not less than one-half inch in height the name of the fumigant, the date and time fumigant was injected,

and the name, address and telephone number of the registered company performing the fumigation. Warning signs placed under a tarpaulin shall not be required to state the time the fumigant was injected.

SEC. 3. Section 8505.13 of the Business and Professions Code is amended to read:

8505.13. A registered company shall maintain a log of each fumigation job performed by it in this state. The log shall be in the form required by the regulations of the board and shall be preserved for a period of at least three years, during which time it shall be available at all times during business hours for inspection by the board and its authorized representatives.

SEC. 4. Section 8505.16 of the Business and Professions Code is amended to read:

8505.16. All fumigators shall be familiar with and able to administer artificial respiration by the best method or methods recommended currently by the Red Cross in its standard texts on first aid.

All fumigating crews shall be outfitted with a safety kit containing safety equipment as specified by the manufacturer's label instructions and by all applicable laws and regulations.

SEC. 5. Section 8505.17 of the Business and Professions Code is amended to read:

8505.17. (a) There is hereby created in the State Treasury a special fund to be known as the Structural Pest Control Education and Enforcement Fund. Funds derived from the pesticide use report filing fee provided for in Section 8674 and all proceeds from civil penalties collected by the board pursuant to Section 8617 shall be deposited in the Education and Enforcement Account which is hereby created in the fund. The account shall be used by the board (1) for the purposes of training as provided in Section 8616, (2) for reimbursement to the Director of Pesticide Regulation for work performed as the agent of the board pursuant to Sections 8616, 8616.4, and 8617 and Section 15202 of the Food and Agricultural Code and for cases referred to the board pursuant to subdivision (b) of Section 8616.5, and (3) for reasonable expenses incurred by the Disciplinary Review Committee. There is no reimbursement from this fund for inspections and routine investigations.

(b) The board may withhold funds from its agent if it is not satisfied that its agent has corrected the problems which resulted in a suspension as provided in Section 8616.6. The authority to withhold funds shall be limited only to the withholding of an amount otherwise due the agent for reimbursable activities performed in the county or counties for which a notice has been filed pursuant to Section 8616.6.

(c) Registered structural pest control companies shall prepare and submit to the county agricultural commissioner a monthly report of all pesticides used in that county. The report shall be on a form approved by the Director of Pesticide Regulation and shall contain the name and registration number of each pesticide, the amount

used, and the number of applications made. The report shall be submitted to the commissioner by the 10th day of the month following the month of application. Each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month shall have affixed thereto a pesticide use stamp issued by the board in the denomination fixed by the board in accordance with Section 8674 as the pesticide use report filing fee. The board shall provide for the sale of these stamps and for the refund of moneys paid for stamps which are returned to it unused. When a registered structural pest control company performs no pest control during a month in a county in which it has given notice pursuant to Section 15204 of the Food and Agricultural Code, the registered company shall submit a use report stating this fact to the commissioner. No pesticide use stamp is required on negative use reports.

(d) All other proceeds from civil penalties collected by the board shall be deposited in the Civil Penalties Account which is hereby created in the fund. These funds shall be available to the board upon appropriation by the Legislature for the purposes of enforcing this chapter.

SEC. 6. Section 8507.1 is added to the Business and Professions Code, to read:

8507.1. (a) "Structural pest control applicator" is any individual who is licensed by the board to apply a pesticide, rodenticide, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestation or infections of pests or organisms included in Branch 2, Branch 3, or wood roof cleaning and treatment on behalf of a registered company.

A structural pest control applicator shall not contract for pest control work or perform pest control work in his or her own behalf.

(b) As used in this chapter, "applicator" refers to "structural pest control applicator."

SEC. 7. Section 8512 of the Business and Professions Code is amended to read:

8512. "Employer" refers to a registered company which hires operators, field representatives, applicators, and other individuals, the latter not being required to be licensed under this chapter, and who work on pest control jobs under the supervision of an operator or field representative.

SEC. 8. Section 8513 of the Business and Professions Code is amended to read:

8513. (a) The board shall prescribe a form entitled "Notice to Owner" which shall describe, in nontechnical language and in a clear and coherent manner using words with common and everyday meaning, the pertinent provisions of this state's mechanics' lien laws and the rights and responsibilities of an owner of property and a registered pest control company thereunder. Each company registered under this chapter, prior to entering into a contract with an owner for work for which a company registration is required, shall

give a copy of this "Notice to Owner" to the owner, his or her agent, or the payer.

(b) No company which is required to be registered under this chapter shall require or request a waiver of lien rights from any subcontractor, employee, or supplier.

(c) Each company registered under this chapter which acts as a subcontractor for another company registered under this chapter shall, within 20 days of commencement of any work for which a company registration is required, give the preliminary 20-day notice (private work) in accordance with the provisions of Section 3097 of the Civil Code, to the owner, his or her agent, or the payer.

(d) Each company registered under this chapter which acts as a prime contractor for work for which a company registration is required shall, prior to accepting payment for the work, furnish to the owner, his or her agent, or the payer a full and unconditional release from any claim of mechanics' lien by any subcontractor entitled to enforce a mechanics' lien pursuant to Section 3114 of the Civil Code.

(e) Each company registered under this chapter which subcontracts to another company registered under this chapter work for which a company registration is required shall furnish to the subcontractor the name of the owner, his or her agent, or the payer.

(f) The provisions of this section shall be applicable only to those registered companies, as defined in Section 8506.1, operating pursuant to a Branch 1, Branch 3, or wood roof cleaning and treatment registration.

(g) A violation of the provisions of this section is a ground for disciplinary action.

SEC. 9. Section 8515 of the Business and Professions Code is amended to read:

8515. Nothing in this chapter shall prohibit a company registered hereunder from authorizing an officer, partner, or employee to submit bids, after an inspection by an individual licensed as an operator or field representative under this act, or to sign contracts after negotiation by an individual licensed as an operator or field representative under this act, on behalf of the registered company.

SEC. 10. Section 8516 of the Business and Professions Code is amended to read:

8516. (a) This section, and Section 8519, apply only to wood destroying pests or organisms, but do not apply to work conducted pursuant to Section 8516.1.

(b) No registered company or licensee shall commence work on a contract, or sign, issue, or deliver any documents expressing an opinion or statement relating to the absence or presence of wood destroying pests or organisms until an inspection has been made by a licensed Branch 3 field representative or operator. The registered company shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form

prescribed by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent. A copy of each report shall be filed with the board at the time the report is delivered or not later than 10 working days after the date the inspection is commenced, except an inspection report prepared for use by an attorney for litigation is not required to be filed with the board. The report shall be delivered to the person requesting the inspection, or to the person's designated agent, before work is commenced. The following shall be set forth in the report:

(1) The date of the inspection and the name of the licensee making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest.

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions which would ordinarily subject those parts to attack by wood destroying pests or organisms exist.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, roof framing that includes the eaves, rafters, fascias, exposed timbers, exposed sheathing, ceiling joists, and attic walls, or other parts subject to attack by wood destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth wood contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions, evidence of roof leaks, and insufficient ventilation are to be reported.

(8) One of the following statements, as appropriate, printed in bold type:

(A) The exterior surface of the roof was not inspected. If you want the water tightness of the roof determined, you should contact a roofing contractor who is licensed by the Contractors' State License Board.

(B) The exterior surface of the roof was inspected to determine whether or not wood destroying pests or organisms are present.

(9) Indication or description of any areas that are inaccessible or not inspected with recommendation for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplemental report on conditions in these areas shall be made.

(10) Recommendations for corrective measures.

(11) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(12) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the

structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date and stamp numbers.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infestation or infection that is evident.

(2) The conditions that are present that are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separated report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection. If a separated form is requested, the form shall explain the infestation or infection that is evident and the conditions that are present that are deemed likely to lead to infestation or infection and the difference between those conditions. In no event, however, shall conditions deemed likely to lead to infestation or infection be characterized as actual "defects" or as actual "active" infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(g) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and such corrections as have been agreed upon have been completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (9), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) A registered company or licensee may enter into and maintain a control service agreement provided the following requirements are met:

(1) The control service agreement shall be in writing, signed by both parties, and shall specifically include the following:

(A) The wood destroying pests and organisms that could infest and infect the structure.

(B) The wood destroying pests and organisms covered by the control service agreement. Any wood destroying pest or organism that is not covered must be specifically listed.

(C) The type and manner of treatment to be used to correct the infestations or infections.

(D) The structures or buildings, or portions thereof, covered by the agreement, including a statement specifying whether the coverage for purposes of periodic inspections is limited or full. Any exclusions from those described in the original report must be specifically listed.

(E) A reference to the original inspection report and agreement.

(F) The frequency of the inspections to be provided, the fee to be

charged for each renewal, and the duration of the agreement.

(G) Whether the fee includes structural repairs.

(H) If the services provided are guaranteed, and, if so, the terms of the guarantee.

(I) A statement that all corrections of infestations or infections covered by the control service agreement shall be completed within six months of discovery, unless otherwise agreed to in writing by both parties.

(2) Inspections made pursuant to a control service agreement shall be conducted by a Branch 3 licensee. Section 8506.1 does not modify this provision.

(3) A full inspection of the property covered by the control service agreement shall be conducted and a report filed pursuant to subdivision (b) at least once every three years from the date that the agreement was entered into, unless the consumer cancels the contract within three years from the date the agreement was entered into.

(4) A written report shall be required for the correction of any infestation or infection unless all of the following conditions are met:

(A) The infestation or infection has been previously reported.

(B) The infestation or infection is covered by the control service agreement.

(C) There is no additional charge for correcting the infestation or infection.

(D) Correction of the infestation or infection takes place within 45 days of its discovery.

(E) Correction of the infestation or infection does not include fumigation.

(5) All notice requirements pursuant to Section 8538 shall apply to all pesticide treatments conducted under control service agreements.

(6) For purposes of this section, "control service agreement" means any agreement, including extended warranties, to have a licensee conduct over a period of time regular inspections and other activities related to the control or eradication of wood destroying pests and organisms.

(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for three years.

SEC. 11. Section 8516.1 of the Business and Professions Code is amended to read:

8516.1. (a) This section applies only to work conducted by a wood roof cleaning and treatment registered company or licensee.

(b) No wood roof cleaning and treatment registered company or licensee shall commence work on a contract, or sign, issue, or deliver

any documents expressing an opinion or statement relating to the absence or presence of wood destroying organisms or nondecay fungi on a wood shake or shingle roof until an inspection has been made. All inspections performed by these registered companies or licensees shall be on properties that are not offered for sale, lease, or exchange, and shall be limited to the wood shakes or shingles on wood shake or shingle roofs and may only be performed for purposes of detecting the presence or absence of wood destroying organisms such as decay fungi on the wood shakes or shingles and resulting decay, or nondecay fungi such as mold, mildew, lichen, or moss on the wood shakes or shingles.

(c) All wood roof cleaning and treatment registered companies shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section shall be on a form prescribed by the board and shall be prepared and delivered to the person requesting the inspection or to the person's designated agent within five days of the inspection if a contract is executed to perform the work. A copy of each report shall be filed with the board at the time the report is delivered or not later than five working days after the date the contract is executed to perform corrective work, except a report prepared for use by an attorney for litigation is not required to be filed with the board. The report shall be delivered to the person requesting the inspection, or to the person's designated agent, before work is commenced. The following items shall be set forth in the report:

(1) The date of the inspection and the name of the licensee making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest.

(4) The address or location of the property.

(5) A general description of the roof covering inspected.

(6) A diagram or sketch of the roof inspected indicating thereon the type and approximate location of any infection of wood destroying organisms or nondecay fungi.

(7) Information regarding conditions usually deemed likely to lead to infection of wood destroying organisms and nondecay fungi.

(8) Recommendations for corrective measures.

(9) Information regarding the wood preservative to be used for control of the wood destroying organisms and nondecay fungi as set forth in subdivision (a) of Section 8538.

(10) A statement printed in 10-point boldface type, stating that the corrective measures will not improve the water tightness of the roof and if the person or entity who ordered the report wants the roof inspected for a determination of water tightness, that person or entity should contact a roofing contractor who is licensed by the Contractors' State License Board.

(11) For purposes of this section and Section 8516, "water

tightness" means that at the time the inspection was performed the roof would not, under normal climatic conditions, leak.

(d) At the time the report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infection that is evident.

(2) The conditions that are present that are deemed likely to lead to infection of wood destroying organisms such as decay fungus.

(3) The conditions that are present that are nondecay fungi such as mold, mildew, lichen, or moss.

If the registered company or licensee fails to comply with the requirements of this subdivision and a dispute arises, or if any dispute arises as to whether this subdivision has been complied with, a separate report shall be provided to the person or entity ordering the report within 24 hours of that request, but in no event later than the next business day, and at no additional cost.

(e) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall take effect.

(f) All work recommended by the registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on that report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for two years.

(g) All wood roof cleaning and treatment registered companies shall possess a current roofing contractor's license issued by the Contractors' State License Board.

SEC. 12. Section 8516.5 of the Business and Professions Code is amended to read:

8516.5. Any registered company that makes an inspection of any property relating to the absence or presence of wood destroying pests or organisms on such property and makes a report of such inspection shall furnish a copy of the report either to the owner of the property or to the agent of the owner, within 10 working days after the date the inspection is commenced, except an inspection report prepared for use by an attorney for litigation is not required to be furnished.

SEC. 13. Section 8528 of the Business and Professions Code is amended to read:

8528. With the approval of the director, the board shall appoint a registrar, fix his or her compensation and prescribe his or her duties.

The registrar is the executive officer and secretary of the board.

SEC. 14. Section 8538 of the Business and Professions Code is amended to read:

8538. (a) A registered structural pest control company shall provide the owner, or owner's agent, and tenant of the premises for which the work is to be done with clear written notice which contains the following statements and information using words with common and everyday meaning:

(1) The pest to be controlled or in the case of wood roof cleaning and treatment registered company applications, the purpose of applying the wood preservative or preservatives.

(2) The pesticide or pesticides proposed to be used, and the active ingredient or ingredients.

(3) "State law requires that you be given the following information: CAUTION—PESTICIDES ARE TOXIC CHEMICALS. Structural Pest Control Companies are registered and regulated by the Structural Pest Control Board, and apply pesticides which are registered and approved for use by the California Department of Pesticide Regulation and the United States Environmental Protection Agency. Registration is granted when the state finds that based on existing scientific evidence there are no appreciable risks if proper use conditions are followed or that the risks are outweighed by the benefits. The degree of risk depends upon the degree of exposure, so exposure should be minimized."

"If within 24 hours following application you experience symptoms similar to common seasonal illness comparable to the flu, contact your physician or poison control center (telephone number) and your pest control company immediately." (This statement shall be modified to include any other symptoms of overexposure which are not typical of influenza.)

"For further information, contact any of the following: Your Pest Control Company (telephone number); for Health Questions—the County Health Department (telephone number); for Application Information—the County Agricultural Commissioner (telephone number) and for Regulatory Information—the Structural Pest Control Board (telephone number and address)."

(b) In the case of Branch 1 applications, the notice, as prescribed by subdivision (a), shall be provided at least 48 hours prior to application unless fumigation follows inspection by less than 48 hours.

In the case of Branch 2, Branch 3, or wood roof cleaning and treatment registered company applications, the notice, as prescribed by subdivision (a) shall be provided no later than prior to application.

In either case, the notice shall be given to the owner, or owner's agent, and tenant, if there is a tenant, in at least one of the following ways:

(1) First-class mail.

(2) Posting in a conspicuous place on the real property.

(3) Personal delivery.

If the building is commercial or industrial, a notice shall be posted in a conspicuous place, unless the owner or owner's agent objects, in addition to any other notification required by this section.

The notice shall only be required to be provided at the time of the initial treatment if a contract for periodic service has been executed. If the pesticide to be used is changed, another notice shall be required to be provided in the manner previously set forth herein.

(c) Any person or licensee who, or registered company which, violates any provision of this section is guilty of a misdemeanor and is punishable as set forth in Section 8553.

SEC. 15. Section 8550 of the Business and Professions Code is amended to read:

8550. (a) It is unlawful for any individual to engage or offer to engage in the business of, act in the capacity of, or advertise himself or herself as, or assume to act as, an operator or a field representative, or to engage or offer to engage in the practice of structural pest control, unless he or she is licensed under this chapter. For purposes of this subdivision, "engage in the practice of structural pest control" shall not include price quotations given by unlicensed employees of a registered company in response to a request for that information.

(b) It is unlawful for any firm, partnership, corporation, association, or other organization or combination thereof to engage or offer to engage in the practice of structural pest control, unless registered in accordance with Article 6 (commencing with Section 8610).

SEC. 16. Section 8551.5 of the Business and Professions Code is amended to read:

8551.5. No unlicensed individual in the employ of a registered company shall apply any pesticide, rodenticide, or allied chemicals or substances for the purpose of eliminating, exterminating, controlling, or preventing infestation or infections of pests, or organisms included in Branch 2, Branch 3, or wood roof cleaning and treatment. However, an individual may, for 30 days from the date of hire, apply pesticides, rodenticides, or allied chemicals for the purposes of training under the direct supervision of a licensed field representative or operator employed by the company. This direct supervision means in the presence of the licensed field representative or operator at all times. The 30-day time period may not be extended.

SEC. 17. Section 8555 of the Business and Professions Code is amended to read:

8555. This chapter does not apply to:

(a) Public utilities operating under the regulations of the State Railroad Commission, except to work performed upon property of the utilities not subject to the jurisdiction of the Railroad Commission or work done by the utility for hire.

(b) Persons engaged only in agricultural pest control work under permit or license by the State Department of Pesticide Regulation

or a county agricultural commissioner.

(c) Pest control performed by persons upon property that they own, lease or rent, except that the persons shall be subject to the limitations imposed by Article 3 of this chapter.

(d) Governmental agencies, state, federal, city, or county officials, and their employees while officially engaged.

(e) Authorized representatives of any educational institution or state or federal agency engaged in research or study of pest control, or engaged in investigation or preparation for expert opinion or testimony. Any professional engaging in research, study, investigation, or preparation for expert opinion or testimony on his or her own behalf shall comply with the requirements of this chapter.

(f) Certified architects and registered civil engineers, acting solely within their professional capacity, except that they shall be subject to the limitations imposed by Article 3 of this chapter.

SEC. 18. Section 8560 of the Business and Professions Code is amended to read:

8560. (a) Licenses issued to operators, field representatives, or applicators shall be limited to the branch or branches of pest control or wood roof cleaning and treatment for which the applicant has qualified by application and examination.

(1) For the purpose of delimiting the type and character of work authorized by the various branch licenses hereinafter set forth, the practice of pest control is classified into the following branches, namely:

Branch 1. Fumigation. The practice relating to the control of household and wood destroying pests or organisms by fumigation with poisonous or lethal gases.

Branch 2. General pest. The practice relating to the control of household pests, excluding fumigation with poisonous or lethal gases.

Branch 3. Termite. The practice relating to the control of wood destroying pests or organisms by the use of insecticides, or structural repairs and corrections, excluding fumigation with poisonous or lethal gases.

(2) For the purposes of delimiting the type and character of work authorized for wood roof cleaning and treatment registered companies, the following apply:

The practice of inspecting wood shake or shingle roofs to determine the presence or absence of (A) wood destroying organisms including decay fungi on the wood shakes or shingles, and resulting decay, and (B) nondecay fungi including mold, mildew, lichen, or moss; cleaning the wood shakes or shingles; and applying wood preservatives to the wood shakes or shingles to prevent infection of wood destroying organisms or nondecay fungi or further damage from wood destroying organisms.

(b) The board may issue a license for a combination of two or more branches and wood roof cleaning and treatment for which an applicant qualifies under the provisions of this chapter, and the combination license shall be considered one license.

(c) Unless otherwise authorized by the board, all written examinations shall be in ink in books supplied by the board. All examination papers shall be kept for a period of one year, upon the expiration of which these papers may be destroyed on order of the board. Each applicant for license as an operator or a field representative shall be designated by a number instead of by name, and the identity thereof shall not be disclosed until the examination papers are graded. No person shall be admitted to the examination room except members of the board, the examining personnel, and the applicants for license.

(d) The board shall make rules and regulations for the purpose of securing fair, impartial, and proper examinations.

(e) Licensees may be licensed in other branches or in wood roof cleaning and treatment upon complying with the requirements for qualification and by examination in those other branches, or wood roof cleaning and treatment. No failure of the licensee to pass examination in the other branch or branches or wood roof cleaning and treatment shall have any effect on existing licenses.

(f) The examination shall be in each of the subjects specified in the branch, branches, or wood roof cleaning and treatment relating to the respective applications. License according to the applications shall be granted to any applicant who shall make a general average of not less than 70 percent on each of the subjects of the branch or branches or wood roof cleaning and treatment.

SEC. 19. Section 8562 of the Business and Professions Code is amended to read:

8562. To obtain an original operator's license, an applicant shall submit to the registrar an application in writing containing the statement that the applicant desires the issuance of an operator's license under the terms of this chapter.

The application shall be made on forms prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(a) The name of the applicant.

(b) Proof satisfactory to the board that the applicant has had actual experience for a period of not less than the time specified opposite the branches of pest control or wood roof cleaning and treatment listed below in the employ of a registered company in the State of California in the particular branch or branches of pest control or wood roof cleaning and treatment for which the applicant desires to be licensed, or the equivalent of that experience:

Branch 1	2 years
Branch 2	2 years
Branch 3	4 years
Wood roof cleaning and treatment	2 years

For the purpose of this subdivision one year shall equal 1,600 hours of actual experience in the field. However, any person applying for a license in wood roof cleaning and treatment on or before June 30, 1995, who was actively involved in the business of commercially applying wood preservatives to wood shake or shingle roofs for at least two years in the five-year period prior to July 1, 1990, is deemed to have sufficient experience for wood roof cleaning and treatment, provided the person submits proof to the board of that experience, and that person shall not be required to demonstrate to the board that he or she has satisfactorily passed the courses specified in Section 8565.5 as a condition for the issuance of that operator's license.

(c) A designation of the branch, branches, or wood roof cleaning and treatment for which the application is made.

(d) The fees prescribed by this chapter.

(e) No operator's license shall be issued to an individual under 18 years of age.

(f) Effective January 1, 1993, an operator's license shall not be issued to an individual unless that individual has been licensed as a field representative in the branch or in wood roof cleaning and treatment in which the individual has applied for an operator's license for a period of at least one year, in the case of Branches 1 and 2, and wood roof cleaning and treatment, or for a period of at least two years for Branch 3, or has demonstrated to the satisfaction of the board that he or she has the equivalent of that training and experience.

SEC. 20. Section 8564 of the Business and Professions Code is amended to read:

8564. To obtain an original field representative's license, an applicant shall submit to the registrar an application in writing containing a statement that the applicant desires the issuance of a field representative's license under the terms of this chapter.

The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board, and shall contain the following:

(a) The length of time during which the applicant has engaged in any work relating to pest control.

(b) The name and place of business of the person who last employed him or her.

(c) The name of the person by whom the applicant is employed.

(d) The name of the registered company by which the applicant is to be employed.

(e) The fees prescribed by this chapter.

The board shall not accept any application for a field

representative's license in Branch 1 unless the applicant submits proof satisfactory to the board that he or she has had six months' training and experience in the practice of fumigating with poisonous or lethal gases under the immediate supervision of an individual licensed to practice fumigating, or the equivalent of that training and experience.

The board shall not accept any application for a field representative's license in Branch 2 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 2 pest identification and biology, pesticide application equipment, and pesticide hazards and safety practice under the immediate supervision of an operator or field representative licensed in Branch 2, or the equivalent of that training and experience.

The board shall not accept any application for a field representative's license in Branch 3 unless the applicant submits proof satisfactory to the board that he or she has had training and experience in the practice of pesticide application, Branch 3 pest identification and biology, pesticide application equipment, pesticide hazards and safety practices, structural repairs, and structural inspection procedures and report writing under the immediate supervision of an operator or field representative licensed in Branch 3, or the equivalent of that training and experience.

The board shall not accept any application for a field representative's license in wood roof cleaning and treatment unless the applicant submits proof satisfactory to the board that he or she has had experience and training in the practice of identification of wood destroying organisms and nondecay fungi on wood shake or shingle roofs, wood preservative application equipment, wood preservative hazards and safety practices, wood shake or shingle roof inspection procedures and report writing under the immediate supervision of an operator or field representative licensed in wood roof cleaning and treatment, and wood preservative application procedures, or the equivalent of that experience and training.

SEC. 21. Section 8564.5 of the Business and Professions Code is amended to read:

8564.5. (a) Any individual 18 years of age or older may apply for a license as applicator.

(b) The board shall ascertain by written examination that an applicant for a license as applicator in Branch 2 or Branch 3 has sufficient knowledge in pesticide equipment, pesticide mixing and formulation, pesticide application procedures and pesticide label directions.

(c) The board shall ascertain by written examination that an applicant for a license as applicator in wood roof cleaning and treatment has sufficient knowledge of wood preservative application equipment, wood preservative application procedures, mixing and formulation and wood preservative label directions.

(d) Passage of the written examination authorizes an individual to apply any chemical substance in Branch 2 or Branch 3 or any wood preservative as part of a roof restoration process for a period not to exceed three years at which time he or she shall again apply for renewal of his or her license and successfully pass the written examination.

(e) The board may charge a fee for any examination required by this section in an amount sufficient to cover the cost of administering the examination, provided, however, that the fee shall not exceed fifteen dollars ($15).

(f) Nothing in this chapter shall prohibit an applicator, authorized to apply any chemical substance in Branch 2 or Branch 3 or wood preservative as part of a roof restoration process before January 1, 1995, from acting as an applicator pursuant to that authorization. Upon expiration of the authorization, an applicator's license shall be required.

SEC. 22. Section 8564.6 is added to the Business and Professions Code, to read:

8564.6. To obtain an original applicator's license, an applicant shall submit to the registrar an application in writing containing a statement that the applicant requests the issuance of an applicator's license under the terms of this chapter.

The application shall be made on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board and shall contain the following:

(a) The name of the registered company by which the applicant is to be employed.

(b) The fee prescribed by this chapter.

SEC. 23. Section 8565 of the Business and Professions Code is amended to read:

8565. The board shall ascertain by written examination that an applicant for a license as operator is qualified in the use and understanding of all of the following:

(a) The English language, including reading, writing, and spelling.

(b) The building and safety laws of the state and any of its political subdivisions, if the branch or branches of pest control, or wood roof cleaning and treatment for which he or she is applying, require that knowledge.

(c) The labor laws of the state.

(d) The provisions of this chapter.

(e) Poisonous and other dangerous chemicals used in pest control, if the branch license or licenses for which he or she is applying, require that knowledge.

(f) The theory and practice of the branch or branches of pest control or wood roof cleaning and treatment in which the applicant desires to be licensed.

(g) Other state laws, safety or health measures, or practices that are reasonably within the scope of structural pest control in the

various branches or in wood roof cleaning and treatment, including an applicant's knowledge of the requirements regarding health effects and restrictions on applications, as set forth in Section 8538.

SEC. 24. Section 8565.5 of the Business and Professions Code is amended to read:

8565.5. (a) An applicant for a Branch 1 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

(1) Pesticides.
(2) Pest identification and biology.
(3) Contract law.
(4) Rules and regulations.
(5) Business practices.
(6) Fumigation safety.

(b) An applicant for a Branch 2 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

(1) Pesticides.
(2) Pest identification and biology.
(3) Contract law.
(4) Rules and regulations.
(5) Business practices.

(c) An applicant for a Branch 3 operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

(1) Pesticides.
(2) Pest identification and biology.
(3) Contract law.
(4) Rules and regulations.
(5) Business practices.
(6) Construction repair and preservation techniques.

(d) An applicant for a wood roof cleaning and treatment operator's license shall demonstrate to the board that he or she has passed satisfactorily board-approved courses in the following areas:

(1) Contract law.
(2) Rules and regulations.
(3) Business practices.
(4) Wood preservatives.
(5) Identification of wood destroying organisms and nondecay fungi on wood shake or shingle roofs.

The board shall develop a correspondence course or courses with any educational institution or institutions as it deems appropriate. These courses may be used to fulfill the requirements of this section. The institution may charge a reasonable fee for each course.

SEC. 25. Section 8566 of the Business and Professions Code is amended to read:

8566. The board shall ascertain by written examination that an applicant for a license as field representative is qualified in the use and understanding of the following:

(a) The safety laws of the state, if the branch or branches of pest control or wood roof cleaning and treatment for which he or she is applying, require that knowledge.

(b) The provisions of this chapter.

(c) Poisonous and other dangerous chemicals used in pest control and wood roof cleaning and treatment, if the branch or branches of pest control or wood roof cleaning and treatment for which he or she is applying, require that knowledge.

(d) The theory and practice of pest control in the branch or branches thereof or in wood roof cleaning and treatment for which the applicant desires to be licensed.

(e) Other state laws, safety or health measures, or practices as are reasonably within the scope of structural pest control in the various branches and in wood roof cleaning and treatment.

SEC. 26. Section 8566.5 of the Business and Professions Code is amended to read:

8566.5. An individual shall be permitted to hold only one license in the same branch or in wood roof cleaning and treatment at the same time.

If an individual who holds an operator's license requests to be licensed as a field representative or applicator, he or she may apply for a field representative's license or applicator's license and shall be granted the license without examination, if he or she surrenders his or her operator's license to the board, and provided that no disciplinary action has been initiated against the operator's license prior to the date of the individual's application for a field representative's license or applicator's license.

If an individual who holds a field representative's license requests to be licensed as an applicator, he or she may apply for an applicator's license and he or she shall be granted the license without examination, if he or she surrenders his or her field representative's license to the board, and if no disciplinary action has been initiated against the field representative's license prior to the date of the individual's application for an applicator's license.

SEC. 27. Section 8567 of the Business and Professions Code is amended to read:

8567. Should a field representative or applicator change his or her employment, or should an operator enter the employ of a registered company, or being already employed by a registered company change his or her employment, or being employed by a registered company leave that employment and enter the pest control business on his or her own behalf, he or she shall notify the registrar in writing, on a form prescribed by the board and issued by the registrar in accordance with rules and regulations adopted by the board. Whereupon the registrar shall register the change in his or her records.

SEC. 28. Section 8572 of the Business and Professions Code is repealed.

SEC. 29. Section 8590 of the Business and Professions Code is

amended to read:

8590. Except as otherwise provided herein, all operator's and field representative's licenses shall expire at 12 midnight on June 30 of every third year and all applicator's licenses shall expire at 12 midnight three years from the date of issue.

An individual licensed in more than one category may request that each license expire on the same date. The date requested shall be the date of the earliest expiration.

Every operator and every field representative shall pay a fee for the renewal of his or her license.

The board shall on or before the first day of June of each year mail to each operator and field representative whose license will expire in that year, addressed to him or her at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by June 30, a penalty will be added thereto.

In no case shall the penalty be waived.

Upon the receipt of the fee the board shall cause the renewal certificate to be issued.

SEC. 30. Section 8590.1 is added to the Business and Professions Code, to read:

8590.1. All applicator's licenses shall expire at 12 midnight three years from the date of issue. Every applicator shall pay a fee for the renewal of his or her license.

The board shall, on or before 60 days prior to the expiration of an applicator's license, mail to the applicator whose license will expire, addressed to him or her at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by the due date, a penalty will be added thereto. In no case shall the penalty be waived. Upon the receipt of the fee, the board shall cause the renewal certificate to be issued.

SEC. 31. Section 8591 of the Business and Professions Code is amended to read:

8591. If delinquency in the payment of the fee for renewal of any operator's or field representative's license extends beyond three months, the license may not be reinstated and the licensee may be required to obtain a new license in accordance with the provisions of Article 4 (commencing with Section 8560).

SEC. 32. Section 8592 of the Business and Professions Code is amended to read:

8592. Any operator, field representative, or applicator whose license is under suspension may make application for renewal of his or her license as provided in this article, but the board may not renew his or her license until the suspension has been lifted.

SEC. 33. Section 8593 of the Business and Professions Code is amended to read:

8593. The board shall require as a condition to the renewal of each operator's and field representative's license that the holder thereof submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest

control either by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the license holder, if he or she so desires, may take and successfully complete an examination given by the board, designed to test his or her knowledge of developments in the field of pest control since the issuance of his or her license.

The board shall develop a correspondence course or courses with any educational institution or institutions as it deems appropriate. This course may be used to fulfill the requirements of this section. The institution may charge a reasonable fee for each course.

The board may charge a fee for the taking of an examination in each branch of pest control and in wood roof cleaning and treatment pursuant to this section in an amount sufficient to cover the cost of administering each examination, provided, however, that in no event shall the fee exceed fifty dollars ($50) for each examination.

SEC. 34. Section 8593.1 is added to the Business and Professions Code, to read:

8593.1. The board shall require as a condition to the renewal of each applicator's license that the holder thereof submit proof satisfactory to the board that he or she has completed courses of continuing education in pesticide application and use approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may successfully apply for and pass an appropriate written applicator's examination for renewal of a license given by the board.

SEC. 35. Section 8611 of the Business and Professions Code is amended to read:

8611. Each branch office shall have a branch supervisor designated by the registered company to supervise and assist the company's employees who are located at that branch. The branch supervisor shall be an individual who is licensed by the board as an operator or a field representative.

If a branch supervisor ceases for any reason to be connected with a registered company, the company shall notify the registrar in writing within 10 days from that cessation. If this notice is given, the company's branch office registration shall remain in force for a reasonable length of time to be determined by rules of the board, during which period the company shall submit to the registrar in writing the name of another qualified branch supervisor.

SEC. 36. Section 8616 of the Business and Professions Code is amended to read:

8616. The Director of Pesticide Regulation shall be designated by the board as its agent for the purposes of carrying out Section 8616.4. The board and the Department of Pesticide Regulation shall jointly develop a training program specifically relating to the various aspects of structural pest control and train all county agricultural commissioners and other personnel involved in structural pest control investigations and enforcement. No disciplinary action

pursuant to Section 8617 may be taken by a county agricultural commissioner until training has been completed.

SEC. 37. Section 8616.4 of the Business and Professions Code is amended to read:

8616.4. The Director of Pesticide Regulation shall designate county agricultural commissioners as his or her representatives to carry out the provisions of Sections 8616.5, 8616.7, and 8617. The Director of Pesticide Regulation shall enter into a contract specifying their responsibilities and providing for reimbursement in accordance with Section 8505.17.

SEC. 38. Section 8616.5 of the Business and Professions Code is amended to read:

8616.5. (a) The county agricultural commissioner shall be the lead agency for inspections and routine investigations of pesticide use by the board licensees and registered companies. When a matter is referred to the board for action, the board shall be the lead agency and may require that the commissioner assist in any investigation.

(b) The board and the Director of Pesticide Regulation shall jointly develop the list of the types of investigations to be conducted by the commissioner that may result in the suspension of a license or company registration, or the imposition of a fine, pursuant to Section 8617 and the list of the types of violations that the commissioner shall refer to the board for disciplinary action.

(c) As used in subdivision (a), the term "routine investigations" means all investigations of pesticide misuse by a board licensee or registered company except (1) investigation of misuse incidents which are referred to the board for disciplinary action or which are the basis for county actions to suspend or fine structural pest control or wood cleaning and treatment licensees or registered companies in accordance with the lists promulgated pursuant to subdivision (b), or (2) any investigation performed by the county agricultural commissioner which has been requested by the board and involves exclusively a violation of this code.

SEC. 39. Section 8616.6 of the Business and Professions Code is amended to read:

8616.6. The Director of Pesticide Regulation shall be notified by the board when it determines that persons acting pursuant to Sections 8616 and 8616.4 have not fulfilled their responsibilities under this chapter in a specific county or counties. The notice to the Director of Pesticide Regulation, which shall be dealt with in a timely manner, shall specifically list the actions which caused the filing of the notice. If the notice is not dealt with in a manner satisfactory to the board, the board may then suspend the activities of its agent pursuant to Section 8616.5, who is subject to the notice in the specific county or counties for which the notice was filed for a period not to exceed 60 days.

SEC. 39.5. Section 8616.9 is added to the Business and Professions Code, to read:

8616.9. If an employee is found during an inspection or

investigation not wearing personal protective equipment required by regulation, the commissioner shall have the option to use discretion in citing an employer only if evidence of all of the following is provided:

(a) The employer has a written training program, has provided training to the employee, and has maintained a record of training as required by regulation.

(b) The employer provided personal protective equipment required by regulation, the equipment was available at the site when the employee was handling the pesticide or pesticides, and the equipment was properly maintained and in good working order.

(c) The employer is in compliance with regulations relating to the workplace and supervision of employees.

(d) The employer has implemented and adheres to a written company policy of disciplinary action for employees who violate company policy or state or local laws or regulations.

(e) The employer has no history of repeated violations of this section.

SEC. 40. Section 8618 is added to the Business and Professions Code, to read:

8618. Documents as specified by regulation must be maintained by all registered companies for three years.

SEC. 41. Section 8619 is added to the Business and Professions Code, to read:

8619. (a) An inspection tag shall be posted whenever an inspection for wood destroying pests or organisms is made.

(b) If the registered company completes any work with respect to wood destroying pests or organisms, it shall post a completion tag next to the inspection tag.

SEC. 42. Section 8620 of the Business and Professions Code is amended to read:

8620. The board may upon its own motion, and shall upon verified complaint in writing of any person, investigate the actions of any individual acting as a licensee, or making application for a license.

After a hearing, the board may temporarily suspend or permanently revoke a license issued under this chapter if the holder, while a licensee or applicant, is guilty of or commits any one or more of the acts or omissions constituting grounds for disciplinary action. In addition to its authority to suspend or revoke a license, the board may assess a civil penalty as follows:

(a) Upon the conclusion of a hearing held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if the proposed decision of the hearing officer is that the licensee is guilty of or has committed any one of the acts or omissions constituting grounds for disciplinary action, the proposed decision shall provide for the imposition of a suspension or for the revocation of the license. In this case, the board may impose the suspension or revocation. The board may also, in lieu of a

suspension, assess a civil penalty. The licensee may express a preference for a form of discipline, but the board shall not be bound by any expression of preference.

If a licensee elects to stipulate to a disciplinary action prior to an administrative hearing, the board may impose a civil penalty, in accordance with this section, in lieu of suspension.

If a proposed stipulation is rejected by the board, it is null and void and does not constitute an admission of any violation charged.

(b) The civil penalty shall not be more than five thousand dollars ($5,000) for an actual suspension of one to 19 days.

(c) The civil penalty shall not be more than ten thousand dollars ($10,000) for an actual suspension of 20 to 45 days.

(d) If a licensee is assessed the civil penalty in lieu of an actual suspension, the penalty shall be paid before the effective date of the decision.

(e) If the civil penalty is not paid before the effective date of the suspension, the license shall be suspended until the penalty is paid or until the actual suspension is served.

No civil penalty shall be assessed in lieu of any suspension which exceeds 45 days. With the exception of the proceedings on suspensions undertaken or on fines levied pursuant to Section 8617, the proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

In any order of suspension or revocation, the board may authorize the completion of any contract or work contracted for under terms and conditions set forth in the order.

SEC. 43. Section 8622 of the Business and Professions Code is amended to read:

8622. When a complaint is accepted for investigation of a registered company, the board, through an authorized representative, may inspect any or all properties on which a report has been issued pursuant to Section 8516 or a notice of completion has been issued pursuant to Section 8518 by such registered company to determine compliance with the provisions of this chapter and the rules and regulations issued thereunder. If the board determines the property or properties are not in compliance, a notice shall be sent to the registered company so stating. The registered company shall have 30 days from the receipt of the notice to bring such property into compliance, and it shall submit a new original report or completion notice or both and an inspection fee of not more than one hundred twenty-five dollars ($125) for each property inspected. If a subsequent reinspection is necessary, pursuant to the board's review of the corrected report or notice or both, a commensurate reinspection fee shall also be charged. If the board's authorized representative makes no determination or determines the property is in compliance, no inspection fee shall be charged.

The notice sent to the registered company shall inform the

registered company that if it desires a hearing to contest such finding of noncompliance, the hearing shall be requested by written notice to the board within 20 days of receipt of the notice of noncompliance from the board. Where a hearing is not requested pursuant to this section, payment of any assessment shall not constitute an admission of any noncompliance charged.

SEC. 44. Section 8642 of the Business and Professions Code is amended to read:

8642. The commission of any grossly negligent or fraudulent act by the licensee as a pest control operator, field representative, or applicator or by a registered company is a ground for disciplinary action.

SEC. 45. Section 8649 of the Business and Professions Code is amended to read:

8649. Conviction of a crime substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is a ground for disciplinary action. The certified record of conviction shall be conclusive evidence thereof.

SEC. 46. Section 8651 of the Business and Professions Code is amended to read:

8651. The performing or soliciting of structural pest control work, the inspecting for structural or household pests, or the applying of any pesticide, chemical, or allied substance for the purpose of eliminating, exterminating, controlling, or preventing structural pests in branches of pest control or wood roof cleaning and treatment other than those for which the operator, field representative, or applicator is licensed or the company is registered is a ground for disciplinary action.

SEC. 47. Section 8652 of the Business and Professions Code is amended to read:

8652. Failure of a registered company to make and keep all inspection reports, contracts, documents, and records, other than financial records, for a period of not less than three years after completion of any work or operation for the control of structural pests or organisms, is a ground for disciplinary action. These records shall be made available to the registrar during business hours.

SEC. 48. Section 8655 of the Business and Professions Code is amended to read:

8655. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a structural pest control operator, field representative, applicator, or registered company is deemed to be a conviction within the meaning of this article or Section 8568 of this chapter. The board may order the license or registration suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a

subsequent order under the provisions of Section 1203.4 of the Penal Code allowing the individual or registered company to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 49. Section 8665 is added to the Business and Professions Code, to read:

8665. The fact that an applicator is licensed shall not affect any liability or responsibility for disciplinary action of any operator, field representative, or registered company that employs or supervises an applicator.

SEC. 50. Section 8674 of the Business and Professions Code is amended to read:

8674. The amount of the fees prescribed by this chapter is that fixed by the following schedule:

(a) A duplicate license fee of not more than two dollars ($2).

(b) A fee for filing a change of name of a licensee of not more than two dollars ($2).

(c) An operator's examination fee of not more than twenty-five dollars ($25).

(d) An operator's license fee of not more than one hundred fifty dollars ($150).

(e) An operator's license renewal fee of not more than one hundred fifty dollars ($150).

(f) A company registration fee of not more than one hundred twenty dollars ($120).

(g) A branch office registration fee of not more than sixty dollars ($60).

(h) A field representative's examination fee of not more than fifteen dollars ($15).

(i) A field representative's license fee of not more than forty-five dollars ($45).

(j) A field representative's license renewal fee of not more than forty-five dollars ($45).

(k) An applicator's examination fee of not more than fifteen dollars ($15).

(*l*) An applicator's license fee of not more than fifty dollars ($50).

(m) An applicator's license renewal fee of not more than fifty dollars ($50).

(n) An inspection report filing fee of not more than three dollars ($3).

(o) A fee for certifying a copy of an inspection report of not more than three dollars ($3).

(p) A fee for filing a notice of work completed of not more than two dollars ($2).

(q) A fee for filing a change of a registered company's name, principal office address, or branch office address, qualifying manager, or the names of a registered company's officers, or bond or insurance of not more than twenty-five dollars ($25) for each change.

(r) A fee for approval of continuing education providers of not more than fifty dollars ($50).

(s) A pesticide use report filing fee of not more than five dollars ($5) for each pesticide use report or combination of use reports representing a registered structural pest control company's total county pesticide use for the month.

(t) A fee for approval of continuing education courses of not more than twenty-five dollars ($25).

(u) (1) Any person who pays a fee pursuant to subdivision (s) shall, in addition, pay a fee of two dollars ($2) for each pesticide use stamp purchased from the board. Notwithstanding any other provision of law, the fee established pursuant to this subdivision shall be deposited with a bank or other depository approved by the Department of Finance and designated by the Research Advisory Panel or into the Structural Pest Control Research Fund which is hereby created and continuously appropriated to be used only for structural pest control research. If the Research Advisory Panel designates that the fees be deposited in an account other than the Structural Pest Control Research Fund, any moneys in the fund shall be transferred to the designated account.

(2) Prior to the deposit of any funds, the depository shall enter into an agreement with the Department of Consumer Affairs that shall include, but not be limited to, all of the following requirements:

(A) The depository shall serve as custodian for the safekeeping of the funds.

(B) Funds deposited in the designated account shall be encumbered solely for the exclusive purpose of implementing and continuing the program for which they were collected.

(C) Funds deposited in the designated account shall be subject to an audit at least once every two years by an auditor selected by the Director of Consumer Affairs. A copy of the audit shall be provided to the director within 30 days of completion of the audit.

(D) The Department of Consumer Affairs shall be reimbursed for all expenses it incurs that are reasonably related to implementing and continuing the program for which the funds were collected in accordance with the agreement.

(E) A reserve in an amount sufficient to pay for costs arising from unanticipated occurrences associated with administration of the program shall be maintained in the designated account.

(3) A charge for administrative expenses of the board in an amount not to exceed 5 percent of the amount collected and deposited in the Structural Pest Control Research Fund may be assessed against the fund. The charge shall be limited to expenses directly related to the administration of the fund.

(4) The board shall, by regulation, establish a five-member research advisory panel including, but not limited to, representatives from each of the following: (1) the Structural Pest Control Board, (2) the structural pest control industry, (3) the Department of Pesticide Regulation, and (4) the University of California. The panel shall

solicit and review research proposals for recommendation to the board. The board shall distribute funds to qualified applicants, pursuant to the panel's recommendation, upon a two-thirds vote.

SEC. 51. Section 8675 of the Business and Professions Code is amended to read:

8675. The fee for a renewal of any license issued under this chapter applied for after the expiration date of the license shall be 50 percent of the fee required for the renewal of the license applied for before the expiration date but not more than one hundred dollars ($100).

SEC. 52. Section 8690 of the Business and Professions Code is amended to read:

8690. The board shall not issue any company registration under this chapter unless the applicant shall have filed with the board on a form prescribed by the board written evidence of an insurance policy approved by the board or a bond as specified in this article, being in effect at the time of the issuance of the company registration. This written evidence shall include a provision that the board shall be given a 10-day notice by the insurance company or bonding company should the policy or bond be canceled or changed during the policy or bond period in a manner as to affect the written evidence.

CHAPTER 845

An act to amend Section 11126 of the Government Code, relating to open meetings.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 11126 of the Government Code is amended to read:

11126. (a) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing. As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void. The

state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body. Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

For the purposes of this section, "employee" shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee shall include a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(b) Nothing in this article shall be construed to prevent state bodies which administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(c) Nothing in this article shall be construed to prevent an advisory body of a state body which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(d) Nothing in this article shall be construed to prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 or similar provisions of law.

(e) Nothing in this article shall be construed to prevent any state body from holding a closed session to consider matters affecting the national security.

(f) Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(g) Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts,

donations, and bequests which the donor or proposed donor has requested in writing to be kept confidential.

(h) Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(i) Nothing in this article shall be construed to prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

For purposes of this subdivision, the negotiator may be a member of the state body.

For purposes of this subdivision, "lease" includes renewal or renegotiation of a lease.

Nothing in this subdivision shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (q).

(j) (1) Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(2) Nothing in this article shall be construed to prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(k) Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(*l*) Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(m) Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(n) Nothing in this article shall be construed to prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks

held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this subdivision, a state body shall also be exempt from the provision of subdivision (i) relating to the identification of real properties prior to the closed session.

(o) Nothing in this article shall be construed to prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(p) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against regulated utilities.

(q) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(1) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(2) (A) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body; or

(B) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized

pursuant to subparagraph (A).

(3) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to paragraph (2) or (3), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(r) Nothing in this article shall be construed to prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(s) Nothing in this article shall be construed to prevent the examining committee established by the State Board of Forestry, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(t) Nothing in this article shall be construed to prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 or 5020.3 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(u) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(v) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.7, from conducting a closed session

to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(w) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(x) Nothing in this article shall be construed to prevent the State Board of Equalization from holding closed sessions for either of the following:

(1) When considering matters pertaining to the appointment or removal of the executive secretary of the State Board of Equalization.

(2) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(y) Nothing in this article shall be construed to prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor pursuant to Section 8590 concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(z) This article shall not prevent the Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(aa) This article shall not prevent the Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

CHAPTER 846

An act to amend Sections 2051 and 10115.1 of the Public Contract Code, relating to public contracts.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 2051 of the Public Contract Code is amended to read:

2051. As used in this chapter, the following definitions apply:

(a) "Awarding department" means any state agency,

department, governmental entity, including the California State University, or officer or entity empowered by law to enter into contracts on behalf of the State of California.

(b) "Department" means the Department of Transportation.

(c) "Minority," for purposes of this section, means a citizen or lawful permanent resident of the United States who is an ethnic person of color and who is: Black (a person having origins in any of the Black racial groups of Africa); Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race); Native American (an American Indian, Eskimo, Aleut, or Native Hawaiian); Pacific-Asian (a person whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, or the United States Trust Territories of the Pacific or including the Northern Marianas); Asian-Indian (a person whose origins are from India, Pakistan, or Bangladesh); or any other group of natural persons identified as minorities in the respective project specifications of an awarding department or participating local agency.

(d) "Minority business enterprise" means a business concern that meets all of the following criteria:

(1) The business is at least 51 percent owned by one or more minorities or, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more minorities.

(2) A business whose management and daily operations are controlled by one or more minorities who own the business.

(3) A business concern with its home office located in the United States which is not a branch or subsidiary of a foreign corporation, firm, or other business.

(e) "Women business enterprise" means a business concern that meets all of the following criteria:

(1) The business is at least 51 percent owned by one or more women or, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more women.

(2) A business whose management and daily operations are controlled by one or more women who own the business.

(3) A business concern with its home office located in the United States which is not a branch or subsidiary of a foreign corporation, firm, or other business.

(f) A "disadvantaged business enterprise" means a business concern that is all of the following:

(1) A "disadvantaged business" as that term is used in Section 23.62 of Title 49 of the Code of Federal Regulations.

(2) An individual proprietorship, partnership, corporation, or joint venture.

(3) Organized for profit, with a place of business located in the United States and which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

(g) "Participating state or local agency" means any state or local agency that elects to participate in the certification process pursuant to this chapter. For purposes of this subdivision, the following definitions apply:

(1) "State agency" means any department, division, board, bureau, commission, or agency of the executive branch of government.

(2) "Local agency" means a county or city, whether general law or chartered, city and county, school district, or other district.

(3) "District" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

SEC. 2. Section 10115.1 of the Public Contract Code is amended to read:

10115.1. As used in this article, the following definitions apply:

(a) "Awarding department" means any state agency, department, governmental entity, or other officer or entity empowered by law to enter into contracts on behalf of the State of California.

(b) "Contract" includes any agreement or joint development agreement to provide labor, services, material, supplies, or equipment in the performance of a contract, franchise, concession, or lease granted, let, or awarded for and on behalf of the State of California.

(c) "Contractor" means any person or persons, regardless of race, color, sex, ethnic origin or ancestry, or any firm, partnership, corporation, or combination thereof, whether or not a minority or women business enterprise, who submits a bid and enters into a contract with a representative of a state agency, department, governmental entity, or other officer empowered by law to enter into contracts on behalf of the State of California.

(d) "Minority," for purposes of this section, means a citizen or lawful permanent resident of the United States who is an ethnic person of color and who is: Black (a person having origins in any of the Black racial groups of Africa); Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race); Native American (an American Indian, Eskimo, Aleut, or Native Hawaiian); Pacific-Asian (a person whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, or the United States Trust Territories of the Pacific including the Northern Marianas); Asian-Indian (a person whose origins are from India, Pakistan, or Bangladesh); or any other group of natural persons identified as minorities in the respective project specifications of an awarding department or participating local agency.

(e) "Minority business enterprise" means a business concern that meets all of the following criteria:

(1) The business is an individual proprietorship, partnership,

corporation, or joint venture at least 51 percent owned by one or more minorities or, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more minorities.

(2) A business whose management and daily operations are controlled by one or more minorities who own the business.

(3) A business concern with its home office located in the United States which is not a branch or subsidiary of a foreign corporation, firm, or other business.

(f) "Women business enterprise" means a business concern that meets all of the following criteria:

(1) The business is an individual proprietorship, partnership, corporation, or joint venture at least 51 percent owned by one or more women or, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more women.

(2) A business whose management and daily operations are controlled by one or more women who own the business.

(3) A business concern with its home office located in the United States which is not a branch or subsidiary of a foreign corporation, firm, or other business.

(g) "Goal" means a numerically expressed objective that awarding departments and contractors are required to make efforts to achieve.

CHAPTER 847

An act to amend Section 8670.37.53 of the Government Code, relating to oil spills.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 8670.37.53 of the Government Code is amended to read:

8670.37.53. In order to receive a certificate of financial responsibility, an applicant shall demonstrate to the satisfaction of the administrator all of the following:

(a) For a certificate for a vessel or for all of the oil contained within a vessel, the applicant shall demonstrate the financial ability to pay at least five hundred million dollars ($500,000,000) for any damages which may arise during the term of the certificate. The level of required financial responsibility shall increase to seven hundred million dollars ($700,000,000) on February 20, 1995, to seven hundred fifty million dollars ($750,000,000) on February 20, 1998, and to one billion dollars ($1,000,000,000) on February 20, 2000. The administrator may establish a lower standard of financial

responsibility for small barges. That standard shall be based on the quantity of oil that can be carried by the barge and the risk of spill from the barge into marine waters. The administrator shall not set a standard that is less than the expected costs from a reasonable worst case oil spill into marine waters.

(b) (1) To receive a certificate for a marine facility, the applicant shall demonstrate the financial ability to pay for any damages which might arise during a reasonable worst case oil spill into marine waters that results from the operations of the marine facility. The administrator shall consider such criteria as the amount of oil that could be spilled into marine waters from the marine facility, the cost of cleaning up the spilled oil, the frequency of operations at the marine facility, and the damages that could result from a spill.

(2) The administrator may issue a certificate for a marine facility upon a lesser showing of financial resources for a period of not longer than three years if the administrator makes all of the following findings:

(A) The marine facility was operating on January 1, 1991.

(B) Continued operation is necessary to finance abandonment of the marine facility.

(C) The financial resources the operator is able to demonstrate are reasonably sufficient to cover the damages from foreseeable spills from the marine facility.

CHAPTER 848

An act to add Sections 1597.20 and 1597.21 to the Health and Safety Code, relating to schoolage day care.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1597.20 is added to the Health and Safety Code, to read:

1597.20. The Legislature finds and declares all of the following:

(a) There is a critical need to increase opportunities for children to engage in positive activities during after school hours.

(b) There is a need for staff with the capacity to make after school programs interesting and relevant for schoolage children.

(c) California's juvenile incarceration rate is twice the national average and has increased 65 percent since 1975.

(d) Twice as many California young people were victims of homicide in 1990 than in 1974.

(e) Compared to 1960, American children spend an average of 10 to 12 fewer hours per week with their parents.

SEC. 2. Section 1597.21 is added to the Health and Safety Code,

to read:

1597.21. The following requirements shall apply to schoolage day care centers:

(a) The State Department of Social Services shall permit the substitution of 20 training hours for each required unit of education.

(b) In addition to an administration course consisting of three units or 60 training hours and three units or 60 training hours in early childhood education, child development, or schoolage child courses, the site director may, as an alternative to existing regulations, complete nine core units or 180 training hours from the following:

(1) Recreation, which includes, but is not limited to, art, music, and dance.

(2) Physical education, which includes, but is not limited to, indoor and outdoor sports activities.

(3) Human services and social welfare, which includes, but is not limited to, nursing, psychology, sociology, or home economics.

(4) Units earned toward an elementary or middle school teaching credential.

(5) Early childhood education, child development, or schoolage child units.

A director is required to complete 12 units or 240 training hours prior to employment. The remaining three units must be completed within one year of employment.

(c) The State Department of Social Services shall expand the list of college degrees that satisfy current site director educational requirements to include degrees in recreation, physical education, human services, and social welfare, as described in paragraph (3) of subdivision (b), and education, as described in paragraphs (2) and (4) of subdivision (b).

(d) As an alternative to satisfying the educational requirements of teachers contained in the regulations, a teacher may substitute 12 units or 240 training hours in any combination of the following:

(1) Recreation, which includes, but is not limited to, art, music, and dance.

(2) Physical education, which includes, but is not limited to, indoor and outdoor sports activities.

(3) Human services and social welfare, which includes, but is not limited to, nursing, psychology, sociology, or home economics.

(4) Units earned toward an elementary or middle school teaching credential.

(5) Early childhood education, child development, or schoolage child units.

A teacher is required to complete six units or 120 training hours prior to employment.

(e) The department shall accept the following alternative types of experience for site directors and teachers, if the experience was obtained working directly with children: classroom teaching or teacher assisting experience in elementary or middle school education; paid or volunteer work experience in physical education

or recreation programs; college work-study or internship in recreation or youth development; paid or volunteer work experience in human services as described in paragraph (3) of subdivision (b); or paid or volunteer work experience in school guidance or in other counseling programs.

(f) In addition to existing approved sources of education, the following are approved sources of education that may be used to satisfy the education required of staff at a schoolage child care center:

(1) Vocational school training in recreation, physical education, human services, social welfare, and education as described in subdivisions (b) and (d).

(2) Professional training that qualifies as continuing education credits in the child care or elementary education area.

(3) Standard training programs that are provided by statewide or nationally recognized or community-based youth service organizations and offered or approved by an accredited educational institution or the Commission on Teacher Credentialing.

(g) Upon the receipt of a completed application for a license to operate a schoolage day care program at a functioning schoolsite from an organization that is currently licensed to operate a schoolage day care program at another site, the department shall have 30 days to make a final determination on whether to issue a license to operate the program. A functioning schoolsite shall meet the requirements of paragraphs (1) and (2) of subdivision (a) of Section 1596.806.

(h) (1) If the department, for any reason, is unable to comply with subdivision (g), it shall, within 30 days of the receipt of the application described in subdivision (g), grant a provisional license to the applicant to operate for a period not to exceed six months. The provisional license shall be granted provided the department has conducted a site visit and has not found any life safety risks, the criminal records clearances are complete, and the school fire inspection has been verified. The requirement for criminal records clearances may be satisfied by transfer of current criminal records clearances, pursuant to subdivision (g) of Section 1596.871. For purposes of a schoolage day care program operating on a functioning schoolsite, the school fire inspection shall be accepted as sufficient fire clearance.

(2) While a provisional license is in effect, the department shall continue its investigation and shall make a final determination on the application prior to the expiration of the provisional license. If the department does not issue a provisional license pursuant to paragraph (1), the department shall follow the procedures for notifying applicants as set forth in subdivision (d) of Section 1596.96.

CHAPTER 849

An act to amend Sections 1002, 1051, 1053, 1777.2, 1784, 3033, 6651, 7150, 7151, 7921, 8232, 8233.3, 8233.4, 8233.8, 8234, 8585.9, and 8598.3 of, to amend the heading of Article 3 (commencing with Section 3270) of Chapter 2 of Part 1 of Division 4 of, to amend, repeal, and add Section 3270 of, and to repeal Sections 3270.5, 3271, 3272, 3273, 3274, 3275, 3277, 3278, 3280, 3281, 3282, 3283, 3284, 3286, 3287, 3288, 3289, 3290, 3291, and 3517 of, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1002 of the Fish and Game Code is amended to read:

1002. (a) The department may issue permits, subject to restrictions and regulations that the commission determines are desirable, to take or possess, in any part of the state, for scientific, educational, or propagation purposes, mammals, birds and the nests and eggs thereof, fish, amphibia, reptiles, or any other form of plant or animal life.

(b) The department may issue a permit that is valid for 24 months from the date of issuance to a resident of this state on the payment of a base fee of thirty dollars ($30), as adjusted under Section 713.

(c) Notwithstanding subdivision (b), the department may issue a permit without fee that is valid for 12 months from the date of issuance for either of the following purposes:

(1) To authorize only the banding of birds and the exhibition of live or dead wildlife specimens by public zoological gardens, scientific, or educational institutions.

(2) To a student who is regularly enrolled in a commercial fishing class in a school operating under the jurisdiction of the State Board of Education or in a commercial fishing class in a community college and to a faculty member of those schools or a community college when conducting a regularly enrolled class in commercial fishing. Any permit issued under this paragraph shall be valid only when the student is under the direct supervision of the instructor who is approved by the school or community college to teach the class and who has obtained a permit under subdivision (b) or this paragraph from the department. All fish taken shall be taken in accordance with state law, except that Sections 7850, 7880, and 7881 do not apply to persons or equipment operating under this paragraph. All fish taken under a permit issued under this paragraph may be sold only to a person licensed to receive fish from commercial fishermen as provided in Section 8032 or 8033 or donated to a charitable institution. All funds received from the sale of the fish shall be used

solely for the support of the commercial fishing classes.

(d) The department may issue a special student permit that is valid for 12 months from the date of issuance on the payment of a base fee of ten dollars ($10), as adjusted under Section 713, to any student in a school of collegiate level who is required by an instructor in wildlife research in the school to collect specimens used in laboratory work in the school under supervision and in connection with a course in wildlife research or in the conduct of wildlife investigations and studies on behalf of the public.

(e) The department may issue a nonresident permit that is valid for 24 months from the date of issuance on application and payment of a base fee of one hundred dollars ($100) as adjusted under Section 713.

(f) It is not necessary for the possessor of the permit to have a sportfishing or hunting license to collect any fish, reptile, aquatic animal or plant, bird, or mammal for scientific, educational, or propagation purposes in this state.

(g) Nothing in this section authorizes any act which violates Section 597 of the Penal Code.

(h) A permit under this section does not authorize the taking of fish or mammals from the ocean waters of this state which are within the boundaries of any city if the city has filed with the department an objection to the taking.

(i) The adjustment of the base fees pursuant to Section 713 that is specified in subdivisions (b), (d), and (e) shall be applicable to permits issued on or after January 1, 1991.

SEC. 2. Section 1051 of the Fish and Game Code is amended to read:

1051. Licenses of each class shall be consecutively numbered. Every license shall contain its expiration date and the amount of the fee for which it is issued. If no fee is either required by this code or established by the commission pursuant to Section 1050, the license shall so indicate.

SEC. 3. Section 1053 of the Fish and Game Code is amended to read:

1053. (a) Not more than one license or not more than the number of license tags authorized by statute or regulation of the same class shall be issued to or purchased by a person for the same license year, except upon:

(1) The expiration of the license.

(2) Except as provided in paragraph (3) or (4), the filing of an affidavit showing the loss or destruction of an unexpired license or license tag previously issued and payment of a fee in an amount determined by the department to pay the cost of issuing a duplicate license or license tag, not to exceed the fee for issuing the original license or license tag.

(3) The filing of an affidavit showing the loss or destruction of an unexpired hunting license, and payment of a base fee of five dollars ($5), as adjusted pursuant to Section 713. Duplicate hunting licenses

issued pursuant to this subdivision shall be issued only by the department.

(4) The surrender of a valid license receipt for an unexpired license issued pursuant to paragraph (1) or (2) of subdivision (a) or subdivision (b) of Section 7149 and the payment of a base fee of five dollars ($5), as adjusted pursuant to Section 713. A duplicate license issued pursuant to this paragraph may be issued by any person authorized by the department to issue licenses.

(b) Any person authorized by the department to issue licenses may administer the oath for purposes of the affidavit without any fee. Each of the affidavits provided for under subdivision (a) shall be filed with the department at the times and in the manner prescribed by the department.

(c) The adjustment of the base fee pursuant to Section 713 specified in subdivision (a) shall be applicable to the hunting license years beginning on or after July 1, 1995, and the fishing license years beginning on or after January 1, 1996.

SEC. 4. Section 1777.2 of the Fish and Game Code is amended to read:

1777.2. "Bank site" or "mitigation bank site" means a publicly or privately owned and operated site on which wetlands have been or will be created in accordance with this chapter to compensate for adverse impacts caused by removal or fill permit activities authorized pursuant to Section 404 of the federal Clean Water Act (33 U.S.C. Sec. 1344 et seq.). "Bank site" or "mitigation bank site" does not include land on which rice is produced that provides significant wetland habitat value.

SEC. 5. Section 1784 of the Fish and Game Code is amended to read:

1784. (a) The department, in cooperation with those agencies specified in Section 1786, shall adopt regulations that establish standards and criteria for the bank site qualification process, for the evaluation of wetland acreage and habitat values created at the bank sites, and for the operation and evaluation of bank sites, and any other regulations that are necessary to implement this chapter.

These criteria shall require, at a minimum, that the newly created wetland provide the hydrologic, vegetative, and wildlife characteristics, including the food web components, of a naturally occurring wetland system.

(b) With respect to bank site standards and operator qualifications, the department shall consider, at a minimum, all of the following criteria:

(1) A requirement that the bank site have a reliable, adequate, and available water supply necessary to provide wetland values. For wetlands dependent only on rainfall, rainfall satisfies this requirement.

(2) The relative ease or difficulty of converting uplands into wetlands at the bank site.

(3) The anticipated maintenance necessary to sustain the

recreated and created wetlands at the bank site.

(4) The proximity of the bank site to other established preserves or natural features historically associated with abundant wildlife values.

(5) The proximity of the bank site to urban or populated areas that could reduce the bank site's long-term biological values.

(6) The demonstrated ability of the bank site operator to create, administer, maintain, and protect the bank site in perpetuity, including financial, technical, and management ability.

(7) The relative abundance or scarcity of the wetland type to be created at the bank site.

(c) No wetland mitigation bank shall be established on land on which rice is produced that provides significant wetland habitat value.

SEC. 6. Section 3033 of the Fish and Game Code is amended to read:

3033. (a) The department shall, upon application and payment of a fee, issue a reduced fee hunting license, that authorizes the licensee to take any bird or mammal as otherwise authorized pursuant to this code and regulations adopted pursuant thereto, to a disabled veteran, as defined in subdivision (b), who has not been convicted of any violation of this code. The base license fee for a reduced fee hunting license shall be four dollars ($4) for the hunting license year beginning on July 1, 1995, and, for the following years, this license fee may be annually reviewed and adjusted in accordance with Section 713.

(b) "Disabled veteran" means a person having a 70 percent or greater service-connected disability and an honorable discharge from military service. The person shall be eligible upon presentation of proof of an honorable discharge from military service and proof of the disability. Proof of the disability shall be by certification from the United States Department of Veterans' Affairs or by presentation of a license issued pursuant to this section in the preceding license year.

SEC. 7. The heading of Article 3 (commencing with Section 3270) of Chapter 2 of Part 1 of Division 4 of the Fish and Game Code is amended to read:

Article 3. Licensed Domesticated Game Bird Hunting Clubs

SEC. 8. Section 3270 of the Fish and Game Code is amended to read:

3270. (a) In order to provide additional hunting by stocking domestically propagated pheasants, and to permit the taking of pheasants under conditions which will not conflict with the public interest, any person who owns or controls the shooting rights on a tract of land may apply to the department for a licensed pheasant club license authorizing the killing by shooting of pheasants upon such land in accordance with the provisions of this article and the

regulations of the commission for the administration of this article.

(b) This section shall become inoperative on July 1, 1995, and as of January 1, 1996, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1996, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 3270 is added to the Fish and Game Code, to read:

3270. (a) In order to provide additional hunting by stocking domestically propagated game birds, and to permit the taking of game birds under conditions that will not conflict with the public interest, any person who owns or controls the hunting rights on a tract of land may apply to the department for a game bird club license authorizing the taking of game birds upon that land in accordance with the regulations of the commission for the administration, including the implementation and enforcement, of this section.

(b) This section shall become operative on July 1, 1995.

SEC. 10. Section 3270.5 of the Fish and Game Code is repealed.

SEC. 11. Section 3271 of the Fish and Game Code is repealed.

SEC. 12. Section 3272 of the Fish and Game Code is repealed.

SEC. 13. Section 3273 of the Fish and Game Code is repealed.

SEC. 14. Section 3274 of the Fish and Game Code is repealed.

SEC. 15. Section 3275 of the Fish and Game Code is repealed.

SEC. 16. Section 3277 of the Fish and Game Code is repealed.

SEC. 17. Section 3278 of the Fish and Game Code is repealed.

SEC. 18. Section 3280 of the Fish and Game Code is repealed.

SEC. 19. Section 3281 of the Fish and Game Code is repealed.

SEC. 20. Section 3282 of the Fish and Game Code is repealed.

SEC. 21. Section 3283 of the Fish and Game Code is repealed.

SEC. 22. Section 3284 of the Fish and Game Code is repealed.

SEC. 23. Section 3286 of the Fish and Game Code is repealed.

SEC. 24. Section 3287 of the Fish and Game Code is repealed.

SEC. 25. Section 3288 of the Fish and Game Code is repealed.

SEC. 26. Section 3289 of the Fish and Game Code is repealed.

SEC. 27. Section 3290 of the Fish and Game Code is repealed.

SEC. 28. Section 3291 of the Fish and Game Code is repealed.

SEC. 29. Section 3517 of the Fish and Game Code is repealed.

SEC. 30. Section 6651 of the Fish and Game Code is amended to read:

6651. (a) A license granting the privilege to harvest kelp or other aquatic plants shall be issued upon application and the payment of a fee of one hundred dollars ($100) to the department. The license shall be valid from January 1 to December 31, inclusive, or, if issued after the beginning of that term, for the remainder thereof.

(b) This chapter does not apply to aquatic plants grown on private land or on state water bottoms leased pursuant to Division 12 (commencing with Section 15000).

SEC. 31. Section 7150 of the Fish and Game Code is amended to read:

7150. (a) Upon application to the department's headquarters office in Sacramento and payment of a base fee of four dollars ($4), as adjusted pursuant to Section 713, the following persons, who have not been convicted of any violation of this code, shall be issued a reduced fee sportfishing license that is valid for the calendar year of issue, or, if issued after the beginning of the year, for the remainder thereof and that authorizes the licensee to take any fish, reptile, or amphibia anywhere in this state as otherwise authorized pursuant to this code and regulations adopted pursuant thereto for purposes other than profit:

(1) A disabled veteran having a 70 percent or greater service connected disability upon presentation of proof of an honorable discharge from military service and proof of the disability. Proof of the disability shall be by certification from the United States Veterans Administration or by presentation of a license issued pursuant to this paragraph in the preceding license year.

(2) A person receiving aid to the aged under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(3) A person over 65 years of age who is a resident of this state and whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount in effect on September 1 of each year contained in subdivision (c) of Section 12201 of the Welfare and Institutions Code for single persons or subdivision (d) of Section 12201 of the Welfare and Institutions Code combined income for married persons, as adjusted pursuant to that section.

The amount in effect on September 1 of each year shall be the amount used to determine eligibility for a reduced fee license during the following calendar year.

(b) A person applying for a reduced fee sportfishing license shall submit adequate documentation for the department to determine whether the applicant is, in fact, eligible for a reduced fee sportfishing license. The documentation shall be in the form of a letter or other document, as specified by the department, from a public agency, except as provided in paragraph (1) of subdivision (a). The department shall not issue a reduced fee sportfishing license to any person unless it is satisfied that the applicant has provided adequate documentation of eligibility for that license.

(c) The adjustment of the base fee pursuant to Section 713 specified in subdivision (a) shall be applicable to the fishing license years beginning on or after January 1, 1996.

SEC. 32. Section 7151 of the Fish and Game Code is amended to read:

7151. (a) Upon application to the headquarters office of the department in Sacramento, the following persons, who have not been convicted of any violation of this code, shall be issued, free of any charge or fee, a free sportfishing license, which is valid for the calendar year of issue or, if issued after the beginning of the year, for

the remainder thereof and which authorizes the licensee to take any fish, reptile, or amphibia anywhere in this state for purposes other than profit:

(1) A blind person upon presentation of proof of blindness. "Blind person" means a person with central vision acuity of 20/200 or less in the better eye, with the aid of the best possible correcting glasses, or central visual acuity better than 20/200 if the widest diameter of the remaining visual field is no greater than 20 degrees. Proof of blindness shall be by certification from a qualified licensed optometrist or opthamologist or by presentation of a license issued pursuant to this paragraph in the preceding license year.

(2) Every resident Indian who, in the discretion of the department, is financially unable to pay the fee required for the license.

(3) Upon certification by the person in charge of a state hospital, a person who is a ward of the state and who is a patient in, and resides in, the state hospital.

(4) Upon certification by the person in charge of the regional center for the developmentally disabled, a developmentally disabled person receiving services from the regional center.

(5) A person who is a resident of the state and who is so severely physically disabled as to be permanently unable to move from place to place without the aid of a wheelchair, walker, or forearm crutches.

(b) Upon application to the headquarters office of the department in Sacramento, the department may issue, free of any charge or fee, a sportfishing permit to fish to groups of mentally or physically handicapped persons under the care of a certified federal, state, county, city, or private licensed care center. The care center shall provide evidence that it is a legitimate licensed care center. The permit shall be issued to the person in charge of the group and shall be in his or her possession when the group is fishing. The permit shall include the location where the activity will
take place and the maximum number of people in the group. The permitholder shall notify the local department office before fishing and indicate where, when, and how long the group will fish.

(c) On January 15 of each year, the department shall determine the number of free sportfishing licenses issued under subdivisions (a) and (b) to blind persons, indigent resident Indians, wards of the state, developmentally disabled persons, and physically disabled persons.

(d) There shall be appropriated from the General Fund a sum equal to two dollars ($2) per free sportfishing license issued under subdivisions (a) and (b), as determined by the department pursuant to subdivision (c). That sum may be appropriated annually in the Budget Act for transfer to the Fish and Game Preservation Fund and appropriated in the Budget Act from the Fish and Game Preservation Fund to the department for the purposes of this part.

SEC. 33. Section 7921 of the Fish and Game Code, as amended by Section 3 of Chapter 1177 of the Statutes of 1993, is amended to read:

7921. The license shall be valid during the period from April 1 to March 31 of the year following, or, if issued after the beginning of that term, for the remainder thereof, and, for a fee of four hundred dollars ($400), shall be issued to the holder of a certificate of boat registration issued pursuant to Section 7881.

This section shall become operative April 1, 1993, and shall remain in effect only until March 31, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before March 31, 1995, deletes or extends that date.

SEC. 34. Section 7921 of the Fish and Game Code, as added by Section 4 of Chapter 1177 of the Statutes of 1993, is amended to read:

7921. (a) The license shall be valid during the period from April 1 to March 31 of the year following, or, if issued after the beginning of that term, for the remainder thereof, and for a fee of two hundred dollars ($200) shall be issued to the holder of a certificate of boat registration issued pursuant to Section 7881.

(b) This section shall become operative on April 1, 1995.

SEC. 35. Section 8232 of the Fish and Game Code is amended to read:

8232. It is unlawful to take or possess salmon for commercial purposes on a vessel unless all of the following conditions are met:

(a) The vessel is registered with the department pursuant to Section 7881, and the owner of the vessel has a valid commercial salmon vessel permit for the use of that vessel.

(b) The permit for the use of the vessel is affixed to the vessel adjacent to the department registration number unless otherwise authorized by the department.

(c) The permit affixed to the vessel is visible at all times.

SEC. 36. Section 8233.3 of the Fish and Game Code is amended to read:

8233.3. Except as otherwise provided in this article, the department shall issue a permit, upon application and payment of the renewal fees pursuant to Section 8235, that is valid for the subsequent permit year, to the owner of a permitted vessel that is registered with the department pursuant to Section 7881.

SEC. 37. Section 8233.4 of the Fish and Game Code is amended to read:

8233.4. Except as otherwise provided in this article, the department shall issue a permit, upon payment of the transfer fees pursuant to subdivision (a) of Section 8239 and surrender to the department of the permit for the use of the permitted vessel, to the owner of a replacement vessel that is registered with the department pursuant to Section 7881, if the transfer has been approved pursuant to Section 8241.

SEC. 38. Section 8233.8 of the Fish and Game Code is amended to read:

8233.8. Except as otherwise provided in this article, the department shall issue a permit to the owner of a commercial salmon fishing vessel that is registered with the department pursuant to

Section 7881 for the new entry of that vessel into the commercial salmon fishery if that owner is authorized to be issued a permit for the use of that new entry vessel pursuant to subdivision (b) of Section 8245.

SEC. 39. Section 8234 of the Fish and Game Code is amended to read:

8234. (a) The department shall not issue a permit under this article unless one of the following first occurs:

(1) The applicant presents to the department a commercial fishing salmon stamp issued to the owner or an agent of the owner. No commercial fishing salmon stamp shall be presented or accepted by the department to authorize issuance of a permit under this section for more than one vessel.

(2) The applicant obtains a commercial fishing salmon stamp and pays the fees for the stamp.

(3) On or before April 1 of the current license year, the owner is 70 years of age.

(b) The first commercial fishing salmon stamp issued to an owner, or to that owner's agent, shall be affixed to the commercial fishing license of that owner or agent. Any additional commercial fishing salmon stamps issued to the owner or the owner's agent pursuant to paragraph (1) of subdivision (a) for purposes of obtaining permits for use of additional commercial salmon fishing vessels shall be affixed to each additional vessel's registration issued pursuant to Section 7881.

SEC. 40. Section 8585.9 of the Fish and Game Code is amended to read:

8585.9. (a) When a person applies for a permit issued under this article, the person shall specify the vessel he or she will use in operations authorized by the permit and the permit shall be used on operations on that vessel. The permittee shall be the owner or operator of that vessel and shall be listed on the boat registration application or statement filed with the department pursuant to Section 7881.

(b) Any transfer shall be authorized by the department only after receipt of proof of a compelling reason that shall be submitted with the request for transfer, such as the sinking of the vessel or sale and purchase of another vessel specified for use in operations authorized by the permit.

SEC. 41. Section 8598.3 of the Fish and Game Code is amended to read:

8598.3. (a) An applicant for a marine aquaria collector's permit shall be a commercial fisherman licensed pursuant to Section 7850.

(b) If a vessel is used in the taking or transporting of species identified in subdivision (a) of Section 8597 for commercial purposes, the vessel shall be registered pursuant to Section 7881.

(c) An application for a marine aquaria collector's permit shall be made on the forms and contain the information that the department may require. Except as provided in subdivision (d) of Section 8597,

the requirement for a marine aquaria collector's permit is in addition to any other commercial fishing requirements.

(d) The fee for a marine aquaria collector's permit shall be three hundred thirty dollars ($330).

(e) A marine aquaria collector's permit shall be valid from April 1 to March 31, inclusive, of the following year, or, if issued after the beginning of that term, for the remainder thereof.

(f) A person engaged in taking or possessing marine species under a marine aquaria collector's permit shall not take or possess any species under the authority of a scientific collector's permit issued pursuant to Section 1002, 5515, or 10660 on the same fishing trip.

SEC. 42. Section 7 and Sections 10 to 29, inclusive, of this act shall become operative July 1, 1995.

CHAPTER 850

An act to amend Section 15346.5 of the Government Code, relating to defense conversion.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The Legislature finds and declares the following:

(a) There have been three "rounds" of military base closures in this state: 1988, 1991, and 1993. There will be a fourth round in 1995, a round that is expected to result in more military base job losses than any of the prior rounds.

(b) In the past three rounds of base closures, California lost more base jobs than all of the other states combined—losing 82,127 jobs (69 percent) of the national total of 119,084.

(c) In the 1993 base closure round, California lost 33,322 jobs or 88 percent of the base jobs that were lost nationally.

(d) In California, local communities have borne virtually all of the responsibility to protect bases and base employment.

SEC. 2. Section 15346.5 of the Government Code is amended to read:

15346.5. The council shall do all of the following:

(a) Develop and recommend to the Governor and the Legislature a strategic plan for federal, state, and local defense conversion and training programs. The plan shall address the state's role in assisting communities impacted by base closures. The opportunity shall be provided for public review and comments on the strategic plan prior to release to the Governor and the Legislature.

(b) Provide a central clearinghouse for all base reuse, community assistance and training funding, regulations, and application procedures to expedite the transfer of state and federal funds to state

and local projects in a timely and efficient manner, and to provide technical assistance to communities and businesses.

(c) Provide a central clearinghouse for all defense conversion funding, regulations, and application procedures to expedite the transfer of funds to state and local projects in a timely and efficient manner.

(d) Serve as a central clearinghouse for input and information, including needs, issues, and recommendations from businesses, industry representatives, labor, local government, and communities.

(e) Identify available state and federal resources to assist businesses (with emphasis on small and minority, women, and disabled veteran-owned businesses), workers, communities, and educational institutions affected by defense expenditure reduction.

(f) Provide one-stop coordination, maintain and disseminate information, standardize state endorsement procedures and develop fast-track review procedures for proposals seeking state funds to match federal defense conversion funding programs.

(g) Review recommendations for state funding awards by regional technology alliances.

(h) Establish criteria under which regional technology alliances may apply for designation.

(i) Where funds and resources are available, maintain and establish data bases in such fields as defense-related companies, industry organization proposers for state and federal defense industry conversion, community assistance, training, and base reuse funds, and provide electronic access to the data bases.

(j) Conduct outreach to entities and parties involved in defense conversion across the state and provide a network to facilitate assistance and coordination for all defense conversion activities within the state.

(k) The council shall help develop and coordinate state advocacy efforts on the federal level.

(*l*) The council shall conduct an evaluation of the impact of the state's matching fund expenditures on the California economy. This evaluation shall be transmitted to the Legislature on or before January 1, 1995, and again on January 1, 1997, and shall consider job growth, increased state and local revenues, and other factors for measuring the effectiveness of this program.

(m) Prepare and implement a plan to minimize California's loss of bases and jobs in the 1995 round of base closures. This plan shall include, but not be limited to, all of the following:

(1) Identification of which bases are threatened with closure.

(2) Determination of how best to defend existing bases and base employment in this state.

(3) Coordination with communities that may face base closures.

(4) Development of data and analyses on bases in this state and elsewhere.

(5) Coordination with the congressional delegation, the Legislature, and the office of the Governor.

With the consent of the appropriate authority, the council may temporarily borrow technical, policy, and administrative staff from other state agencies, including the Legislature.

CHAPTER 851

An act to amend Section 6203 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The Legislature find and declares all of the following:

(a) California retailers suffer from unfair competition because out-of-state retailers without a physical presence in California cannot be compelled to collect California sales and use taxes on purchases by California customers, whereas California retailers are required to collect those taxes on similar purchases.

(b) The United States Supreme Court, in the case of Quill v. North Dakota, 112 U.S. 1904, has held that the United States Congress may authorize state governments to require out-of-state retailers to collect state and local sales and use taxes, and S. 1825 has been introduced in the United States Senate for that purpose.

(c) While the Legislature is strongly supportive of S. 1825 as the long-term solution to sales and use tax disadvantages faced by California retailers with respect to their out-of-state competitors, the short-term clarification of the impact of the Quill decision upon California law is necessary to assure uniformity and certainty in the application of sales and use tax laws, pending the operation of a Congressional enactment.

SEC. 2. Section 6203 of the Revenue and Taxation Code is amended to read:

6203. Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, not exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the board.

As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

"Retailer engaged in business in this state" as used in this and the preceding section means and includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(b) Any retailer having any representative, agent, salesperson, canvasser, independent contractor, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing, assembling, or the taking of orders for any tangible personal property.

(c) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.

(d) Any retailer soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this state.

(e) Any retailer who, pursuant to a contract with a broadcaster or publisher located in this state, solicits orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this state and only secondarily to bordering jurisdictions.

(f) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.

(g) Any retailer owned or controlled by the same interests which own or control any retailer engaged in business in the same or a similar line of business in this state.

(h) Any retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this section.

(i) Any retailer who, pursuant to a contract with a cable television operator located in this state, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this state.

(j) Notwithstanding Section 7262, a retailer specified in subdivision (d), (e), (f), (g), (h), or (i) above, and not specified in subdivision (a), (b), or (c) above, is a "retailer engaged in business in this state" for the purposes of this part and Part 1.5 (commencing with Section 7200) only.

(k) (1) For purposes of this section, "engaged in business in this state" does not include the taking of orders from customers in this state through a computer telecommunications network located in this state which is not directly or indirectly owned by the retailer

when the orders result from the electronic display of products on that same network. The exclusion provided by this subdivision shall apply only to a computer telecommunications network that consists substantially of on-line communications services other than the displaying and taking of orders for products.

(2) This subdivision shall become inoperative upon the earlier of the following dates:

(A) The operative date of either (i) provisions of S. 1825 of the 103rd Congress of the United States that authorize states to compel the collection of state sales and use taxes by out-of-state retailers or (ii) substantially similar provisions of another Congressional act.

(B) The date five years from the effective date of the act adding this subdivision.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 852

An act to amend Section 16112.7 of, and to add Sections 6523 and 53226.3 to, the Government Code, and to amend Section 97.035 of, and to add Section 98.65 to, the Revenue and Taxation Code, relating to local government.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The Legislature finds and declares that operating costs can be decreased by reducing the number of separate bills affecting related topics by consolidating these bills into a single measure. Therefore, in enacting this act, it is the intent of the Legislature to consolidate several minor, noncontroversial statutory changes relating to public agencies into a single measure.

SEC. 2. Section 6523 is added to the Government Code, to read:

6523. A joint powers entity that is created pursuant to an agreement entered into, in accordance with this article, by the City of West Sacramento, Reclamation District No. 537, and Reclamation District No. 900 may exercise the authority granted to reclamation districts under Part 7 (commencing with Section 51200) and Part 8 (commencing with Section 52100) of Division 15 of the Water Code

for the purposes of Sections 12670.2, 12670.3, and 12670.4 of the Water Code.

SEC. 3. Section 16112.7 of the Government Code is amended to read:

16112.7. Notwithstanding Sections 16111 and 16112, redevelopment agencies shall receive state subventions for the 1990–91 fiscal year in accordance with the following procedures:

(a) The Department of Finance shall calculate an amount equal to 25 percent of the total amount all redevelopment agencies would otherwise be entitled to receive in the 1990–91 fiscal year pursuant to paragraph (3) of subdivision (c) of Section 16111.

(b) On or before December 31, 1990, for the 1990–91 fiscal year, the Controller shall allocate the amount calculated pursuant to subdivision (a) to each redevelopment agency in accordance with the percentage entitlement of the total amount that would otherwise be allocated to that agency pursuant to paragraph (3) of subdivision (c) of Section 16111.

(c) The Department of Finance shall calculate an amount equal to 50 percent of the total amount all redevelopment agencies would otherwise be entitled to receive in the 1990–91 fiscal year pursuant to paragraph (3) of subdivision (c) of Section 16111.

(d) On July 1, 1991, the Controller shall allocate the amount calculated pursuant to subdivision (c) to each redevelopment agency in accordance with the percentage entitlement of the total amount that would otherwise be allocated to that agency pursuant to paragraph (3) of subdivision (c) of Section 16111.

(e) Subdivisions (a) to (d), inclusive, shall not apply to any redevelopment agency which has stated in bond instruments and supporting documents that the amounts received pursuant to Section 16111 are pledged as security for payment of the principal and interest of those bonds and that the bond reserve account is insufficient to cover the bond payments. Any redevelopment agency within this subdivision shall, for the 1990–91 fiscal year, instead receive two payments allocated by the Controller, with each payment equal to 50 percent of the amount that would otherwise be allocated to that agency pursuant to paragraph (3) of subdivision (c) of Section 16111. The first payment pursuant to this subdivision shall be made on or before December 31, 1990, and the second payment shall be made on July 1, 1991. No redevelopment agency shall, on or after the effective date of this section, pledge the amounts received pursuant to Section 16111 as security for payment of the principal and interest of bonds, provided, however, that the amounts received pursuant to Section 16111 may be pledged as security for the payment of principal of, and interest on, bonds issued to refund all or a portion of the bonds described in the first sentence of this subdivision if (1) the total debt service on the refunding bonds, as calculated by an accounting firm or other verification agent selected by the redevelopment agency, is not greater than the total debt service on the bonds to be refunded, (2) the term of the refunding

bonds is not greater than the term of the bonds to be refunded, and (3) the maximum amount of debt service will in no year be greater than the maximum annual debt service on the bonds to be refunded.

(f) Notwithstanding the prohibition contained in subdivision (e), relating to the pledge of amounts received pursuant to Section 16111 as security for the payment of bonds, a redevelopment agency within a city with a population of less than 20,000 which receives amounts pursuant to Section 16111 in the 1989–90 fiscal year in excess of one million five hundred thousand dollars ($1,500,000) but less than two million five hundred thousand dollars ($2,500,000), may pledge amounts received pursuant to Section 16111, which amounts shall not be less than the amounts allocated to the agency for the 1984–85 fiscal year, as security for the payment of the principal and interest on bonds issued prior to January 1, 1992.

SEC. 4. Section 53226.3 is added to the Government Code, to read:

53226.3. The legislative body of a district, other than a school district, may, by resolution, insure against losses caused by an employee or officer of the district in lieu of providing a bond or bonds. After the resolution is adopted, any requirements of law regarding faithful performance or revolving fund bonds shall be inapplicable to the district or any officer or employee of the district. The amount of the insurance shall be determined pursuant to Sections 1480 and 1481 and shall give the same or greater protection to the district that a bond would provide in indemnifying the district against any loss caused by the employee or officer of the district.

SEC. 5. Section 97.035 of the Revenue and Taxation Code is amended to read:

97.035. Notwithstanding any other provision of this chapter, the computations and allocations made by each county pursuant to Section 97, as modified by Section 97.03 for the 1992–93 fiscal year, shall be modified for the 1993–94 fiscal year pursuant to subdivisions (a) to (c), inclusive, as follows:

(a) The amount of property tax revenue deemed allocated in the prior fiscal year to each county and city and county shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions for counties and cities and counties determined pursuant to this section shall be one billion nine hundred ninety-eight million dollars ($1,998,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of the reduction for each county or city and county as follows:

(A) The proportionate share of the property tax revenue reduction for each county or city and county that would have been imposed on all counties under the proposal specified in the "May Revision of the 1993–94 Governor's Budget" shall be determined by reference to the document entitled "Estimated County Property Tax Transfers Under Governor's May Revision Proposal," published by

the Legislative Analyst's Office on June 1, 1993.

(B) Each county's or city and county's proportionate share of total taxable sales in all counties in the 1991–92 fiscal year shall be determined.

(C) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (A) to the one billion nine hundred ninety-eight million dollar ($1,998,000,000) statewide reduction for counties and cities and counties.

(D) An amount for each county and city and county shall be determined by applying its proportionate share determined pursuant to subparagraph (B) to the one billion nine hundred ninety-eight million dollar ($1,998,000,000) statewide reduction for counties and cities and counties.

(E) The Director of Finance shall add the amounts determined pursuant to subparagraphs (C) and (D) for each county and city and county, and divide the resulting figure by two. The amount so determined for each county and city and county shall be divided by a factor of 1.038. The resulting figure shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior fiscal year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee its determination of the amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify the auditor of each county and city and county of the amount of property tax revenue reduction determined for each county and city and county.

(5) Notwithstanding any other provision of this subdivision, the amount of the reduction specified in paragraph (2) for any county or city and county that has first implemented, for the 1993–94 fiscal year, the alternative procedure for the distribution of property tax levies authorized by Chapter 2 (commencing with Section 4701) of Part 8 shall be reduced, for the 1993–94 fiscal year only, in the amount of any increased revenue allocated to each qualifying school entity that would not have been allocated for the 1993–94 fiscal year but for the implementation of that alternative procedure. For purposes of this paragraph, "qualifying school entity" means any school district, county office of education, or community college district that is not an excess tax school entity as defined in Section 95.1. Notwithstanding any other provision of this paragraph, the amount of any reduction calculated pursuant to this paragraph for any county or city and county shall not exceed the reduction calculated for that county or city and county pursuant to paragraph (2).

(b) The amount of property tax revenue deemed allocated in the prior fiscal year to each city shall be reduced by an amount to be determined by the Director of Finance in accordance with the following:

(1) The total amount of the property tax reductions determined

for cities pursuant to this section shall be two hundred eighty-eight million dollars ($288,000,000) in the 1993–94 fiscal year.

(2) The Director of Finance shall determine the amount of reduction for each city as follows:

(A) The amount of property tax revenue that is estimated to be attributable in the 1993–94 fiscal year to the amount of each city's state assistance payment received by that city pursuant to Chapter 282 of the Statutes of 1979 shall be determined.

(B) A factor for each city equal to the amount determined pursuant to subparagraph (A) for that city, divided by the total of the amounts determined pursuant to subparagraph (A) for all cities, shall be determined.

(C) An amount for each city equal to the factor determined pursuant to subparagraph (B), multiplied by three hundred eighty-two million five hundred thousand dollars ($382,500,000), shall be determined.

(D) In no event shall the amount for any city determined pursuant to subparagraph (C) exceed a per capita amount of nineteen dollars and thirty-one cents ($19.31), as determined in accordance with that city's population on January 1, 1993, as estimated by the Department of Finance.

(E) The amount determined for each city pursuant to subparagraphs (C) and (D) shall be the amount of property tax revenue to be subtracted from the amount of property tax revenue deemed allocated in the prior year.

(3) The Director of Finance shall, by July 15, 1993, report to the Joint Legislative Budget Committee those amounts determined pursuant to paragraph (2).

(4) On or before August 15, 1993, the Director of Finance shall notify each county auditor of the amount of property tax revenue reduction determined for each city located within that county.

(c) (1) The amount of property tax revenue deemed allocated in the prior fiscal year to each special district, as defined pursuant to subdivision (m) of Section 95, shall be reduced by the amount determined for the district pursuant to paragraph (3) and increased by the amount determined for the district pursuant to paragraph (4). The total net amount of these changes is intended to equal two hundred forty-four million dollars ($244,000,000) in the 1993–94 fiscal year.

(2) Notwithstanding any other provision of this subdivision, no reduction shall be made pursuant to this subdivision with respect to any of the following special districts:

(A) A local hospital district as described in Division 23 (commencing with Section 32000) of the Health and Safety Code.

(B) A water agency that does not sell water at retail, but not including an agency the primary function of which, as determined on the basis of total revenues, is flood control.

(C) A transit district.

(D) A police protection district formed pursuant to Part 1

(commencing with Section 20000) of Division 14 of the Health and Safety Code.

(E) A special district that was a multicounty special district as of July 1, 1979.

(3) (A) On or before September 15, 1993, the county auditor shall determine an amount for each special district equal to the amount of its allocation determined pursuant to Sections 96 or 97, and 98 for the 1993–94 fiscal year multiplied by the ratio determined pursuant to paragraph (1) of subdivision (a) of Section 98.6 as that section read on June 15, 1993. In those counties that were subject to Sections 98.65, 98.66, 98.67, and 98.68, the county auditor shall determine an amount for each special district that represents the current amount of its allocation determined pursuant to Sections 96 or 97, and 98 for the 1993–94 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979. In determining this amount, the county auditor shall adjust for the influence of increased assessed valuation within each district, including the effect of jurisdictional changes, and the reductions in property tax allocations required in the 1992–93 fiscal year by Chapters 699 and 1369 of the Statutes of 1992. In the case of a special district that has been consolidated or reorganized, the auditor shall determine the amount of its current property tax allocation that is attributable to the prior district's or districts' receipt of state assistance payments pursuant to Chapter 282 of the Statutes of 1979. Notwithstanding any other provision of this paragraph, for a special district that is governed by a city council or whose governing board has the same membership as a city council and that is a subsidiary district as defined in subdivision (e) of Section 16271 of the Government Code, the county auditor shall multiply the amount that otherwise would be calculated pursuant to this paragraph by 0.38 and the result shall be used in the calculations required by paragraph (5). In no event shall the amount determined by this paragraph be less than zero.

(B) Notwithstanding subparagraph (A), beginning with the 1994–95 fiscal year in the County of Sacramento, the auditor shall determine the amount for each special district that represents the current amount of its allocations determined pursuant to Section 96, 97, 98, or 98.65 for the 1994–95 fiscal year that is attributed to the property tax shift from schools required by Chapter 282 of the Statutes of 1979.

(4) (A) On or before September 15, 1993, the county auditor shall determine an amount for each special district that is engaged in fire protection activities, as reported to the Controller for inclusion in the 1989–90 Edition of the Financial Transactions Report Concerning Special Districts under the heading of "Fire Protection," that is equal to the amount of revenue allocated to that special district from the Special District Augmentation Fund for fire protection activities in the 1992–93 fiscal year. In the case of a special district, other than a special district governed by the county board of supervisors or whose

governing body is the same as the county board of supervisors, that is engaged in fire protection activities as reported to the Controller, the county auditor shall also determine the amount by which the district's amount determined pursuant to paragraph (3) exceeds the amount by which its allocation was reduced by operation of Section 98.6 in the 1992–93 fiscal year. This amount shall be added to the amount otherwise determined for the district under this paragraph. In any county subject to Section 98.65, 98.66, 98.67, or 98.68, the county auditor shall determine for each special district that is engaged in fire protection activities an amount that is equal to the amount determined for that district pursuant to paragraph (3).

(B) For purposes of this paragraph, a special district includes any special district that is allocated property tax revenue pursuant to this chapter and does not appear in the State Controller's Report on Financial Transactions Concerning Special Districts, but is engaged in fire protection activities and appears in the State Controller's Report on Financial Transactions Concerning Counties.

(5) The total amount of property taxes allocated to special districts by the county auditor as a result of paragraph (4) shall be subtracted from the amount of property tax revenues not allocated to special districts by the county auditor as a result of paragraph (3) to determine the amount to be deposited in the Education Revenue Augmentation Fund as specified in subdivision (d).

(6) On or before September 30, 1993, the county auditor shall notify the Director of Finance of the net amount determined for special districts pursuant to paragraph (5).

(d) (1) The amount of property tax revenues not allocated to the county, city and county, cities within the county, and special districts as a result of the reductions required by subdivisions (a), (b), and (c) shall instead be deposited in the Educational Revenue Augmentation Fund established in each county or city and county pursuant to Section 97.03. The amount of revenue in the Educational Revenue Augmentation Fund, derived from whatever source, shall be allocated pursuant to paragraphs (2) and (3) to school districts and county offices of education, in total, and to community college districts, in total, in the same proportion that property tax revenues were distributed to school districts and county offices of education, in total, and community college districts, in total, during the 1992–93 fiscal year.

(2) The county auditor shall, based on information provided by the county superintendent of schools pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to school districts and county offices of education only to those school districts and county offices of education within the county that are not excess tax school entities, as defined in Section 95.1. The county superintendent of schools shall determine the amount to be allocated to each school district in inverse proportion to the amounts of property tax revenue per average daily attendance in each school district. For each county

office of education, the allocation shall be made based on the historical split of base property tax revenue between the county office of education and school districts within the county. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a school district or county office of education upon that district or county office of education becoming an excess tax school entity. If, after determining the amount to be allocated to each school district and county office of education, the county superintendent of schools determines there are still additional funds to be allocated, the county superintendent of schools shall determine the remainder to be allocated in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per average daily attendance in each remaining school district, and on the basis of the historical split described above for each county office of education, that is not an excess tax school entity until all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated. The county superintendent of schools may determine the amounts to be allocated between each school district and county office of education to ensure that all funds that would not result in a school district or county office of education becoming an excess tax school entity are allocated.

(3) The county auditor shall, based on information provided by the Chancellor of the California Community Colleges pursuant to this paragraph, allocate that proportion of the revenue in the Educational Revenue Augmentation Fund to be allocated to community college districts only to those community college districts within the county that are not excess tax school entities, as defined in Section 95.1. The chancellor shall determine the amount to be allocated to each community college district in inverse proportion to the amounts of property tax revenue per funded full-time equivalent student in each community college district. In no event shall any additional money be allocated from the Educational Revenue Augmentation Fund to a community college district upon that district becoming an excess tax school entity.

(4) If, after making the allocation required pursuant to paragraph (2), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (3). If, after making the allocation pursuant to paragraph (3), the auditor determines that there are still additional funds to be allocated, the auditor shall allocate those excess funds pursuant to paragraph (2). If, after determining the amount to be allocated to each community college district, the Chancellor of the California Community Colleges determines that there are still additional funds to be allocated, the Chancellor of the California Community Colleges shall determine the remainder to be allocated to each community college district in inverse proportion to the amounts of property tax revenue, excluding Educational Revenue Augmentation Fund moneys, per funded full-time equivalent student in each remaining

community college district that is not an excess tax school entity until all funds that would not result in a community college district becoming an excess tax school entity are allocated.

(5) For purposes of allocations made pursuant to Section 97 for the 1994–95 fiscal year, the amounts allocated from the Educational Revenue Augmentation Fund pursuant to this subdivision, other than those amounts deposited in the Educational Revenue Augmentation Fund pursuant to any provision of the Health and Safety Code, shall be deemed property tax revenue allocated to the Educational Revenue Augmentation Fund in the prior fiscal year.

SEC. 6. Section 98.65 is added to the Revenue and Taxation Code, to read:

98.65. (a) For the 1989–90 and 1990–91 fiscal years, property tax revenue shall be allocated by the Sacramento County Auditor to special districts, as defined in subdivision (b), consistent with the holding of American River Fire Protection District v. Board of Supervisors (1989) 211 Cal. App. 3d 1076 and as implemented in American River Fire Protection District, et al. v. Board of Supervisors of the County of Sacramento, et al., Sacramento Superior Court Case No. 431637, and for the 1991–92 fiscal year and each fiscal year thereafter, shall be allocated pursuant to subdivisions (c), (d), and (e).

(b) The amount allocated for the 1990–91 fiscal year and each fiscal year thereafter pursuant to Section 96 or 97, and Section 98 to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, including that portion of any multicounty district located within the County of Sacramento, and the amount allocated pursuant to Section 75.70 to a special district which is governed by the Board of Supervisors of Sacramento County or whose governing body is the same as the Board of Supervisors of Sacramento County, shall be governed by this section.

(c) For the 1991–92 fiscal year, the amount of property tax revenue that would otherwise be allocated to the special districts described in subdivision (b) pursuant to Section 75.70, or Section 96 or 97, and Section 98, shall be reduced or otherwise adjusted by the difference between the following amounts:

(1) The reduction, if any, made to the amount of property tax revenues allocated to each special district pursuant to Section 98.6 in the 1990–91 fiscal year as determined by the Sacramento County Auditor.

(2) The allocations approved by the Board of Supervisors of Sacramento County to each special district pursuant to Section 98.6 in the 1990–91 fiscal year.

(d) Notwithstanding any other provision of law, for the 1992–93 fiscal year and each fiscal year thereafter, the Sacramento County Auditor shall allocate to the special districts described in subdivision (b) the total amount of property tax revenue allocated in the prior fiscal year as calculated in subdivisions (c) and (e).

(e) Notwithstanding subdivisions (a) and (b) of Section 97, for the

1991–92 fiscal year and each fiscal year thereafter, the annual tax increment as defined in subdivision (c) of Section 97 for the special districts described in subdivision (b) in each tax rate area shall be the sum of the following amounts:

(1) Each special district's share of property tax revenues in each of the tax rate areas within their respective jurisdictions without regard to this subdivision.

(2) The ratio of the amount determined for each special district in subdivision (c) and the special district's property tax revenue for the 1990–91 fiscal year, multiplied by the special district's share of property tax revenues in each tax rate area for the 1990–91 fiscal year.

(f) Notwithstanding any other provision of law, this section shall not be operative in the 1993–94 fiscal year.

SEC. 7. (a) In addition to the authority granted in Section 54953 of the Government Code, the Board of Supervisors of Santa Barbara County and a standing committee composed of members of the Board of Supervisors of Santa Barbara County that is a legislative body within the meaning of subdivision (b) of Section 54952 of the Government Code may use teleconferencing for the benefit of the public or the legislative body in connection with any meeting or proceeding authorized by law. The use of teleconferencing by the board under this section shall be limited to receipt of testimony by staff and members of the public and to deliberations of the legislative body. If the legislative body elects to use teleconferencing, it shall post agendas at all teleconference locations which shall be open to the public. The legislative body shall adopt reasonable regulations to adequately protect the statutory or constitutional rights of the parties or the public appearing before the legislative body. On or before June 30, 1996, the board of supervisors shall submit a report to the Legislature evaluating the county's experience pursuant to this act.

(b) The term "teleconference" as used in this section means a system that provides for audio participation between all members of the legislative body and the public attending a meeting or hearing.

(c) The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of Santa Barbara County that require extensive travel by county supervisors and staff to attend regular meetings.

(d) This section shall remain in effect until January 1, 1997, and on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1997, deletes or extends that date.

SEC. 8. The Legislature finds and declares, with respect to Section 2 of this act, that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the City of West Sacramento, Reclamation District No. 537, and Reclamation District No. 900.

SEC. 9. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution because this act affirms for the state, as described in subdivision (b) of Section 17556 of the Government Code, that which has been declared to be existing law in American River Fire Protection District v. Board of Supervisors (1989) 211 Cal. App. 3d 1076 and has been implemented in American River Fire Protection District, et al. v. Board of Supervisors of Sacramento County, et al., Sacramento Superior Court Case No. 431637.

SEC. 10. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 853

An act to add Section 7073.3 to the Government Code, relating to enterprise zones.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 7073.3 is added to the Government Code, to read:

7073.3. An existing enterprise zone that is located in the unincorporated area of a county may propose to use eligible expansion allotment to expand into an adjacent city or cities pursuant to Section 7073 and this section if, in addition to approving the expansion based on the criterion described in paragraph (2) of subdivision (d) of Section 7073, the agency finds that all of the following conditions exist:

(a) Each of the cities' governing bodies approves the expansion by adoption of an ordinance or resolution.

(b) Land included within the proposed expansion is zoned for industrial or commercial use.

(c) Basic infrastructure, including, but not limited to, gas, water, electrical service, and sewer systems, is available to the area that would be included in the expansion.

CHAPTER 854

An act relating to small business, and making an appropriation therefor.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The sum of seventy-six thousand dollars ($76,000) is appropriated for the 1995–96 fiscal year from the General Fund to the Trade and Commerce Agency to pay for the operation costs of the Small Business Development Corporation Expansion Center established by the California Southern Small Business Development Corporation, as authorized in Chapter 1273 of the Statutes of 1993.

CHAPTER 855

An act to add Section 6363.2 to the Revenue and Taxation Code, relating to taxation, and to take effect immediately, tax levy.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 6363.2 is added to the Revenue and Taxation Code, to read:

6363.2. There are exempted from the taxes imposed by this part, the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, tangible personal property that is sold to a successful bidder at an auction that is conducted by, or affiliated with, a nonprofit organization, if the purpose of that auction is to obtain revenue for the funding of a shelter for homeless individuals and families and those revenues obtained are actually expended for that purpose. For purposes of this section, "nonprofit organization" means an organization that is exempt from taxation under Section 23701d. This section shall not apply to any sale at an auction that is conducted more than once during any 12-month period.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the

first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 856

An act to add Sections 4833.1 and 4985.3 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) The recession of the early 1990's has had a disproportionate negative impact on the state of California and its residents with respect to employment, personal income, and real property values.

(2) Many property owners are entitled to the property tax relief available through the local equalization or assessment appeals process, and have filed valid appeals, thereby creating workloads that cannot be addressed by county boards of equalization or county assessment appeals boards in a timely fashion.

(3) As a result of the current law's waiver of penalties where there is any subsequent devaluation in the assessed value of the property by the local assessment appeals board, many taxpayers have found it economically rewarding to simply fail to timely remit their property taxes once an appeal for reassessment has been filed. With the recession making the likelihood of some devaluation high, the taxpayer no longer has the potential of penalties for failure to pay as an encouragement to keep current on tax payments, pending a resolution with the assessment appeals board.

(4) The failure of taxpayers to keep current with tax payments due under the law has created a substantial cash-flow burden on Los Angeles County in particular.

(5) Failure to address these problems could result in the effective denial of due process to taxpayers as well as undeserved reductions in property tax values, thereby creating additional financial hardship for local governments and schools.

(b) It is the intent of the Legislature in enacting this measure to protect taxpayers' rights, to preserve local government and school funding, and to assist counties in property tax administration by establishing or ensuring that the taxpayer, while being protected in his or her right to seek reassessment through the local assessment appeals process, is not afforded an unfair advantage over other taxpayers by not being subject to penalties for failure to timely remit payment of property taxes pending an appeal of his or her request of reassessment.

SEC. 2. Section 4833.1 is added to the Revenue and Taxation Code, to read:

4833.1. (a) Notwithstanding Section 2610.5, in the case of corrections made to the roll pursuant to Section 1646.1, where a taxpayer has failed to pay an amount of tax computed upon assessed value that is the subject of a pending assessment appeal, the relief from penalties shall apply only to the difference between the county board's final determination of value and the value on the assessment roll for the fiscal year covered by the application. For purposes of this section, "county board" means either a county board of supervisors that meets as a county board of equalization or an assessment appeals board.

(b) The county board shall cause notice of the requirements of this section to be mailed to each taxpayer or to be presented to each taxpayer upon filing an application for reduction in assessment with the county board if that taxpayer will be impacted by the penalty provisions of this section.

(c) For any taxpayer who has paid at least 80 percent of the amount of tax finally determined due by the county board within 60 days of mailing or presentation of the notice prescribed in subdivision (b), the tax collector shall accept payment of the balance of the tax due without penalties or interest.

(d) This section shall apply only to those properties upon which an application for reduction in assessment is pending before the county board on the effective date of the act adding this section or those applications for reduction in assessment that are filed with the county board after the effective date of the act adding this section.

(e) This section shall only become operative if the board of supervisors of a county, with the approval of the county's tax collector and the county's auditor, adopts a resolution or ordinance approving this section.

SEC. 3. Section 4985.3 is added to the Revenue and Taxation Code, to read:

4985.3. (a) Notwithstanding Section 2610.5, in the case of cancellations made to the roll pursuant to Section 1646.1, where a taxpayer has failed to pay an amount of tax computed upon assessed value that is the subject of a pending assessment appeal, the relief from penalties shall apply only to the difference between the county board's final determination of value and the value on the assessment roll for the fiscal year covered by the application. For purposes of this section, "county board" means either a county board of supervisors that meets as a county board of equalization or an assessment appeals board.

(b) The county board shall cause notice of the requirements of this section to be mailed to each taxpayer or to be presented to each taxpayer upon filing an application for reduction in assessment with the county board if that taxpayer will be impacted by the penalty provisions of this section.

(c) For any taxpayer who has paid at least 80 percent of the

amount of tax finally determined due by the county board within 60 days of mailing or presentation of the notice prescribed in subdivision (b), the tax collector shall accept payment of the balance of the tax due without penalties or interest.

(d) This section shall apply only to those properties upon which an application for reduction in assessment is pending before the county board on the effective date of the act adding this section or those applications for reduction in assessment that are filed with the county board after the effective date of the act adding this section.

(e) This section shall only become operative if the board of supervisors of a county, with the approval of the county's tax collector and the county's auditor, adopts a resolution or ordinance approving this section.

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

In order to appropriately address the currently massive backlog of assessment appeals that contains a substantial number of appeals that are frivolous or made in bad faith, and thereby preclude an imminent, improper, and crippling reduction in already severely restricted amounts of local government revenues, it is necessary that this act take effect immediately.

CHAPTER 857

An act to amend Section 6369 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy, and declaring the urgency thereof.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The Legislature previously exempted from the sales and use tax the gross receipts from the sale of, and the storage, use, or other consumption in this state of, prescription pharmaceuticals.

(b) The use tax is intended to be a companion tax to the sales tax and generally is intended to apply to storage, use, or consumption of property in this state which was not subject to sales tax because it was purchased outside the state. The use tax is not intended to apply to property of a class that would have been exempt if sold with the state.

(c) Pharmaceutical manufacturers often furnish free samples of prescription medicines to licensed physicians, surgeons, dentists, and podiatrists and to other health care facilities, including, but not

limited to, hospitals, clinics, and institutions of higher education.

(d) The recipients of those free samples often furnish them to indigent patients or furnish those free samples to other patients to enable them to test the efficacy of a particular product before buying it.

(e) The Legislature intends that the exemption from the sales and use tax include the manufacture and distribution of those free samples, including the acquisition of any constituent elements incorporated in the manufactured pharmaceutical.

SEC. 2. Section 6369 of the Revenue and Taxation Code is amended to read:

6369. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale in this state of, and the storage, use, or other consumption in this state of, medicines:

(1) Prescribed for the treatment of a human being by a person authorized to prescribe the medicines, and dispensed on prescription filled by a registered pharmacist in accordance with law.

(2) Furnished by a licensed physician and surgeon, dentist, or podiatrist to his or her own patient for treatment of the patient.

(3) Furnished by a health facility for treatment of any person pursuant to the order of a licensed physician and surgeon, dentist, or podiatrist.

(4) Sold to a licensed physician and surgeon, podiatrist, dentist, or health facility for the treatment of a human being.

(5) Sold to this state or any political subdivision or municipal corporation thereof, for use in the treatment of a human being; or furnished for the treatment of a human being by a medical facility or clinic maintained by this state or any political subdivision or municipal corporation thereof.

(6) Furnished without charge by a pharmaceutical manufacturer or distributor to a licensed physician, surgeon, dentist, podiatrist, or health facility for the treatment of a human being, or furnished by a pharmaceutical manufacturer or distributor without charge to an institution of higher education for instruction or research, provided that the exemption provided in this paragraph is limited to medicines of a type that can be dispensed only (A) for the treatment of a human being and (B) pursuant to prescriptions issued by persons authorized to prescribe medicines. The exemption provided in this paragraph shall include the materials used to package, and the constituent elements and ingredients used to produce, the medicines described in this paragraph and is intended to preclude any imposition of tax pursuant to Section 6094 or 6095 with respect to those materials, elements, and ingredients.

(b) "Medicines" as used in this section, means any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment, or prevention of disease and commonly recognized as a substance or preparation intended for that use. However, "medicines" does not include any of the following:

(1) Any auditory, prosthetic, ophthalmic, or ocular device or appliance.

(2) Articles that are in the nature of splints, bandages, pads, compresses, supports, dressings, instruments, apparatus, contrivances, appliances, devices, or other mechanical, electronic, optical, or physical equipment or article or the component parts and accessories thereof.

(3) Any alcoholic beverage the manufacture, sale, purchase, possession, or transportation of which is licensed and regulated by the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code).

(c) Notwithstanding subdivision (b), "medicines" as used in this section means and includes any of the following:

(1) Sutures, whether or not permanently implanted.

(2) Bone screws, bone pins, pacemakers, and other articles, other than dentures, permanently implanted in the human body to assist the functioning of any natural organ, artery, vein, or limb and which remain or dissolve in the body.

(3) (A) Orthotic devices, other than orthodontic devices, designed to be worn on the person of the user as a brace, support, or correction for the body structure, and replacement parts for these devices. However, orthopedic shoes and supportive devices for the foot are not exempt unless they are custom-made biomechanical foot orthoses or are an integral part of a leg brace or artificial leg.

(B) For purposes of this paragraph, "custom-made biomechanical foot orthoses" means an individually prescribed foot orthosis which is custom fabricated over a neutral or near neutral subtalar joint with a pronated midtarsal joint position positive plaster model of the patient's foot, which model, when the cast is modified to support the osseous position of the forefoot in relationship to the rearfoot, embodies the angular osseous relationships of the anterior and posterior portions of the foot.

(4) Prosthetic devices, and replacement parts for those devices, designed to be worn on or in the person of the user to replace or assist the functioning of a natural part of the human body, other than auditory, ophthalmic, and ocular devices or appliances, and other than dentures, removable or fixed bridges, crowns, caps, inlays, artificial teeth, and other dental prosthetic materials and devices.

(5) Artificial limbs and eyes, or their replacement parts, for human beings.

(6) Programmable drug infusion devices to be worn on or implanted in the human body.

(d) "Health facility" as used in this section has the meaning ascribed to it in Section 1250 of the Health and Safety Code.

(e) Insulin and insulin syringes furnished by a registered pharmacist to a person for treatment of diabetes as directed by a physician shall be deemed to be dispensed on prescription within the meaning of this section.

(f) Orthotic and prosthetic devices, and replacement parts for

these devices, furnished pursuant to the written order of a physician or podiatrist, shall be deemed to be dispensed on prescription within the meaning of paragraph (1) of subdivision (a), whether or not the devices are furnished by a registered pharmacist.

(g) Mammary prostheses, and any appliances and related supplies necessary as the result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste, shall be deemed to be dispensed on prescription within the meaning of this section.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, notwithstanding this section or Section 5 of this act, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

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

In order to clarify the tax status on the furnishing of free pharmaceutical samples as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 858

An act to amend Sections 22952 and 22953 of, and to add Sections 22218.5 and 24411.5 to, the Education Code, relating to the State Teachers' Retirement System, and making an appropriation therefor.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 22218.5 is added to the Education Code, to read:

22218.5. (a) The board on March 1, 1995, and annually thereafter, shall report to the fiscal committees of the Legislature and to the Director of Finance the return on investments and actual payroll subject to the system for the prior fiscal year.

SEC. 2. Section 22952 of the Education Code is amended to read:

22952. (a) Effective January 1, 1980, the school districts and other employing agencies in the state, in addition to all other

contributions required by this part, on account of liability for benefits pursuant to Section 24407, shall contribute monthly to the Teachers' Retirement Fund 0.307 percent of the total of the salaries upon which members' contributions are based.

(b) The Controller shall adjust the contributions required by this section within 10 days of notification by the board of the actual creditable earnings on which the contributions are based. A copy of the notification shall be transmitted to the Legislature, the Director of Finance, the Office of the Legislative Analyst, and the Commission on State Mandates. The payroll data shall be subject to audit by the Controller pursuant to Section 17558.5 of the Government Code.

SEC. 3. Section 22953 of the Education Code is amended to read:

22953. (a) Effective January 1, 1981, the school districts and other employing agencies in the state, in addition to all other contributions required by this chapter, on account of liability for benefits pursuant to Section 24408, shall contribute monthly to the Teachers' Retirement Fund 0.108 percent of the total of the salaries upon which members' contributions are based.

(b) The Controller shall adjust the contributions required by this section within 10 days of notification by the board of the actual creditable earnings on which the contributions are based. A copy of the notification shall be transmitted to the Legislature, the Director of Finance, the Office of the Legislative Analyst, and the Commission on State Mandates. The payroll data shall be subject to audit by the Controller pursuant to Section 17558.5 of the Government Code.

(c) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 4. Section 24411.5 is added to the Education Code, to read:

24411.5. In furtherance of the policy stated in subdivision (e) of Section 24411, the Legislature hereby declares that it is the intent of the State of California to ensure a common minimum purchasing power protection level equal to 75 percent of the purchasing power of the original allowance. It is the intent to meet this goal from funds appropriated for purchasing power protection from revenues from state school lands in the California desert, the Elk Hills Naval Petroleum Reserve, and all other state school and lieu land revenues, as well as state appropriations, and all other sources that may be used to meet this goal.

CHAPTER 859

An act to amend Section 1502 of, and to add Section 1507 to, the Public Utilities Code, relating to water service.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1502 of the Public Utilities Code is amended to read:

1502. (a) As used in this chapter, "political subdivision" means a county, city and county, city, municipal water district, county water district, irrigation district, public utility district, California water district, or any other public corporation.

(b) As used in this chapter, "service area" means an area served by a privately owned public utility in which the facilities have been dedicated to public use and in which territory the utility is required to render service to the public.

(c) As used in this chapter, "operating system" means an integrated water system for the supply of water to a service area of a privately owned public utility.

(d) As used in this chapter, "private utility" means a privately owned public utility providing a water service.

(e) As used in this chapter, "type of service" means, among other things, domestic, commercial, industrial, fire protection, wholesale, or irrigation service.

(f) As used in this chapter, "reclaimed water" means reclaimed water as defined in Section 13050 of the Water Code.

(g) As used in this chapter, "private use" means an entity's use of its own reclaimed water.

SEC. 2. Section 1507 is added to the Public Utilities Code, to read:

1507. This chapter shall not be applicable if all of the following conditions are met:

(a) The use is limited to the private use of reclaimed water by an entity that owns a water reclamation plant.

(b) The use is limited to the premises of a water reclamation plant or landfill owned by the entity that owns or operates the water reclamation plant.

(c) The use is limited to dust suppression, and irrigation purposes, and other uses on the site for which reclaimed water has been approved by the State Department of Health Services.

(d) No existing reclaimed water facilities, whether owned or operated by a private utility or political subdivision, can reasonably and economically serve the intended use.

(e) If reclaimed water is used on the premises of a landfill, the entity provides appropriate compensation to the private utility or political subdivision for those facilities directly used for the water

services being replaced by reclaimed water service. Appropriate compensation shall not include valuations based on revenues lost by the private utility or political subdivision due to replacement of water service with reclaimed water.

(f) This section shall apply only in Los Angeles County.

SEC. 3. Due to the unique circumstances concerning the relationship between the retail water suppliers and the sanitation districts in Los Angeles County, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 860

An act to amend Sections 50078.6, 50078.15, and 54954.6 of the Government Code, and to amend Sections 5222, 10311, 18364, 18691, and 22626 of the Streets and Highways Code, relating to local taxes.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 50078.6 of the Government Code is amended to read:

50078.6. The clerk of the local agency shall cause a copy of the notice of the filing of the report and of the time, date, and place of hearing thereon to be mailed to each parcel or property owner whose property would be subject to the assessment. The notice shall be mailed at least 45 days prior to the date set for hearing pursuant to Section 54954.6 by name to those persons whose name and address appear on the last equalized county assessment roll, the State Board of Equalization assessment roll, or as known to the clerk. The envelope or cover of the mailing shall include the name of the local agency and the return address of the sender. The mailed notice shall include the name of the local agency, the return address of the sender, the amount of the initial assessment, the basis of the assessment, a summary of the procedures for making a protest pursuant to Section 50078.12, and if applicable, the amount of the maximum assessment and the duration of the assessment. The notice shall also contain the name and telephone number of the person designated by the legislative body to answer inquiries regarding the protest proceedings.

SEC. 2. Section 50078.15 of the Government Code is amended to read:

50078.15. If no protests or objections in writing have been delivered to the clerk up to the hour set for hearing thereon, or if valid protests have been found by the legislative body to be less than 10 percent of the total amount of expected revenue, the legislative

body may, upon the conclusion of the hearing, adopt, revise, change, reduce, or modify each or any assessment. The legislative body shall make a determination upon each assessment as described in the report or as determined at the hearing, and thereafter, by ordinance or resolution, shall determine and levy the assessment.

SEC. 3. Section 54954.6 of the Government Code is amended to read:

54954.6. (a) (1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a city, county, special district, or joint powers authority shall conduct at least one public meeting at which local officials must allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term "new or increased assessment" does not include any of the following:

(A) A fee which does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district's principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment which does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) of Section 54954.6 and which was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven

days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property shall be accomplished through a mailing, postage prepaid, in the United States mail and shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll or the State Board of Equalization assessment roll, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The estimated amount of the assessment per parcel. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice must also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment which is proposed exclusively for operation and maintenance expenses for an entire city, county, or district, or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with Section 22500) of Division 2 of the Streets and Highways Code by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with Section 35100) of, the Public Resources Code, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the city, county, special district, or joint powers authority imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these

purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

SEC. 4. Section 5222 of the Streets and Highways Code is amended to read:

5222. If the protest is against the proposed work and the legislative body finds that the protest is made by the owners of more than one-half of the area of the property to be assessed for the improvements, and protests are not withdrawn so as to reduce the same to less than a majority, no further proceedings shall be taken for a period of one year from the date of the decision of the legislative body on the hearing, unless the protests are overruled by an affirmative vote of four-fifths of the members of the legislative body finding that the public health and safety require that the improvements be made. The determination of the legislative body shall be final and conclusive.

SEC. 5. Section 10311 of the Streets and Highways Code is amended to read:

10311. If the protest is against the proposed improvement and the legislative body finds that the protest is made by the owners of more than one-half of the area of the land to be assessed for the improvements, and protests are not withdrawn so as to reduce the protests to less than a majority, no further proceedings shall be taken for a period of one year from the date of the decision of the legislative body on the hearing, unless the protests are overruled by an affirmative vote of four-fifths of the members of the legislative body finding that the public health and safety require that the improvements be made. The determination of the legislative body shall be final and conclusive. Any person making a protest may withdraw the protest, in writing, at any time prior to the conclusion of the protest hearing. The legislative body may confirm, modify, or correct the proposed assessment.

SEC. 6. Section 18364 of the Streets and Highways Code is amended to read:

18364. If there is a majority protest by the landowners in any zone to the improvement in that zone, or if the street superintendent reports that it is practical to subdivide a zone and a majority of the landowners in that subdivided zone protest the improvement in that subdivided zone, the city council shall strike that zone or subdivided zone from the proceedings and correct the proposed assessment accordingly, unless that body, by a four-fifths affirmative vote of all its members finds that the public health and safety require that street lights in that zone or subdivided zone be improved. The determination of the city council shall be final and conclusive.

SEC. 7. Section 18691 of the Streets and Highways Code is amended to read:

18691. The city council may, by four-fifths vote, deny all protests finding that the public health and safety require that the improvements be made and its decision thereon shall be final and

conclusive. If any protests on matters which can not be modified as provided in Section 18690 hereof are sustained, the proceedings shall be abandoned but may be renewed at any time. No land shall be included within the district which in the judgment of the city council will not be benefited by the street lighting system as that body has finally determined to maintain and operate it.

SEC. 8. Section 22626 of the Streets and Highways Code is amended to read:

22626. Notice of the hearing shall be given by either of the following methods:

(a) If the assessments are to be levied in the same or lesser amounts than in any previous year, the clerk shall give notice by causing the resolution of intention to be published pursuant to Sections 22552 and 22553.

(b) If the assessments are to be increased from any previous year, notice of the public meeting and public hearing required by Section 54954.6 of the Government Code shall be mailed as provided in subdivision (c) of that section.

CHAPTER 861

An act to amend Sections 24353, 24916, and 25128 of, and to add Sections 17249, 17279, 17748, 18035, 18060, 18166, 18173, 24355, 24355.5, 24966.3, 24990.8, and 24990.9 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 17249 is added to the Revenue and Taxation Code, to read:

17249. (a) The amendments to Section 167(c) of the Internal Revenue Code made by Section 13261(b)(2) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to amortization of goodwill and certain other intangibles, shall apply.

(b) Section 167(f) of the Internal Revenue Code, relating to treatment of property excluded from Section 197, as added by Section 13261(b) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), shall apply, except as otherwise provided.

SEC. 2. Section 17279 is added to the Revenue and Taxation Code, to read:

17279. (a) Section 197 of the Internal Revenue Code, relating to amortization of goodwill and certain other intangibles, as added by Section 13261 of the Revenue Reconciliation Act of 1993 (P.L. 103-66), shall apply, except as otherwise provided.

(b) (1) Section 13261(g) of the Revenue Reconciliation Act of

1993 (P.L. 103-66), relating to effective dates, shall apply, except as otherwise provided.

(2) (A) If a taxpayer has, at any time, made an election for federal purposes under Section 13261(g)(2) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to election to have amendments apply to property acquired after July 25, 1991, or Section 13261(g)(3) of that act, relating to elective binding contract exception, a separate election for state purposes shall not be allowed under paragraph (3) of subdivision (e) of Section 17024.5 and the federal election shall be binding for purposes of this part.

(B) If a taxpayer has not made an election for federal purposes under Section 13261(g)(2) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to election to have amendments apply to property acquired after July 25, 1991, or Section 13261(g)(3) of that act, relating to elective binding contract exception, with respect to property acquired before August 11, 1993, then the taxpayer shall not be allowed to make an election under Section 13261(g) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), for purposes of this part, with respect to that property.

(c) Notwithstanding any other provision of this section, each of the following shall apply:

(1) No deduction shall be allowed under this section for any taxable year beginning prior to January 1, 1994.

(2) No inference is intended with respect to the allowance or denial of any deduction for amortization in any taxable year beginning before January 1, 1994.

(3) In the case of an intangible that was acquired in a taxable year beginning before January 1, 1994, the amount to be amortized shall not exceed the adjusted basis of that intangible as of the first day of the first taxable year beginning on or after January 1, 1994, and that amount shall be amortized ratably over the period beginning with the first month of the first taxable year beginning on or after January 1, 1994, and ending 15 years after the month in which the intangible was acquired.

SEC. 3. Section 17748 is added to the Revenue and Taxation Code, to read:

17748. The amendments to Section 642 of the Internal Revenue Code made by Section 13261(f)(2) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to amortization of goodwill and certain other intangibles, shall apply.

SEC. 4. Section 18035 is added to the Revenue and Taxation Code, to read:

18035. The amendments to Section 1016 of the Internal Revenue Code made by Section 13261(f)(3) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to amortization of goodwill and certain other intangibles, shall apply.

SEC. 5. Section 18060 is added to the Revenue and Taxation Code, to read:

18060. The amendments to Section 1060 of the Internal Revenue

Code made by Section 13261(e) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to amortization of goodwill and certain other intangibles, shall apply.

SEC. 6. Section 18166 is added to the Revenue and Taxation Code, to read:

18166. The amendments to Section 1245 of the Internal Revenue Code made by paragraphs (4) and (5) of Section 13261(f) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to amortization of goodwill and certain other intangibles, shall apply.

SEC. 7. Section 18173 is added to the Revenue and Taxation Code, to read:

18173. The amendments to Section 1253 of the Internal Revenue Code made by Section 13261(c) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to amortization of goodwill and certain other intangibles, shall apply.

SEC. 8. Section 24353 of the Revenue and Taxation Code is amended to read:

24353. (a) The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in Section 24911 for the purpose of determining the gain on the sale or other disposition of the property.

(b) If any property is acquired subject to a lease, each of the following shall apply:

(1) No portion of the adjusted basis shall be allocated to the leasehold interest.

(2) The entire adjusted basis shall be taken into account in determining the depreciation deduction, if any, with respect to the property subject to lease.

SEC. 9. Section 24355 is added to the Revenue and Taxation Code, to read:

24355. Section 167(f) of the Internal Revenue Code, relating to treatment of property excluded from Section 197, as added by Section 13261(b) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), shall apply, except as otherwise provided.

SEC. 10. Section 24355.5 is added to the Revenue and Taxation Code, to read:

24355.5. (a) Section 197 of the Internal Revenue Code, relating to amortization of goodwill and certain other intangibles, as added by Section 13261 of the Revenue Reconciliation Act of 1993 (P.L. 103-66), shall apply, except as otherwise provided.

(b) (1) Section 13261(g) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to effective dates, shall apply, except as otherwise provided.

(2) (A) If a taxpayer has, at any time, made an election for federal purposes under Section 13261(g)(2) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to election to have amendments apply to property acquired after July 25, 1991, or Section 13261(g)(3) of that act, relating to elective binding contract exception, a separate election for state purposes shall not be allowed under paragraph (3)

of subdivision (e) of Section 23051.5 and the federal election shall be binding for purposes of this part.

(B) If a taxpayer has not made an election for federal purposes under Section 13261(g)(2) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to election to have amendments apply to property acquired after July 25, 1991, or Section 13261(g)(3) of that act, relating to elective binding contract exception, with respect to property acquired before August 11, 1993, then the taxpayer shall not be allowed to make an election under Section 13261(g) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), for purposes of this part, with respect to that property.

(c) Notwithstanding any other provision of this section, each of the following shall apply:

(1) No deduction shall be allowed under this section for any income year beginning prior to January 1, 1994.

(2) No inference is intended with respect to the allowance or denial of any deduction for amortization in any income year beginning before January 1, 1994.

(3) In the case of an intangible that was acquired in an income year beginning before January 1, 1994, the amount to be amortized shall not exceed the adjusted basis of that intangible as of the first day of the first income year beginning on or after January 1, 1994, and that amount shall be amortized ratably over the period beginning with the first month of the first income year beginning on or after January 1, 1994, and ending 15 years after the month in which the intangible was acquired.

SEC. 11. Section 24916 of the Revenue and Taxation Code is amended to read:

24916. Proper adjustment with regard to the property shall in all cases be made as follows:

(a) For expenditures, receipts, losses, or other items properly chargeable to capital account. However, no adjustment shall be made for any of the following:

(1) Sales or use tax paid or incurred in connection with the acquisition of property for which a tax credit is claimed pursuant to Section 23612.

(2) Taxes or other carrying charges described in Section 24426, or for expenditures described in Sections 24364 and 24369 for which deductions have been taken in determining net income for the income year or any prior income year.

(b) For exhaustion, wear and tear, obsolescence, amortization, and depletion:

(1) In the case of banks or corporations subject to the tax imposed by Chapter 2 (commencing with Section 23101), to the extent sustained prior to January 1, 1928, and to the extent allowed (but not less than the amount allowable) under this part, except that no deduction shall be made for amounts in excess of the amount which would have been allowable had depreciation not been computed on the basis of January 1, 1928, value and amounts in excess of the

adjustments required by Section 113(b)(1)(B) of the Federal Revenue Act of 1938 for depletion prior to January 1, 1932.

(2) In the case of a taxpayer subject to the tax imposed by Chapter 3, to the extent sustained prior to January 1, 1937, and for periods thereafter to the extent allowed (but not less than the amount allowable) under the provisions of this part.

(3) If a taxpayer has not claimed an amortization deduction for an emergency facility, the adjustment under paragraph (1) shall be made only to the extent ordinarily provided under Sections 24349 and 24372.

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

(d) (1) In the case of banks or corporations subject to the tax imposed by Chapter 2, in the case of any bond, as defined in Section 24363, to the extent of the deductions allowable pursuant to Section 24360 with respect thereto.

(2) In the case of taxpayers subject to the tax imposed by Chapter 3, in the case of any bond, as defined in Section 24363, the interest on which is wholly exempt from the tax imposed by this part, to the extent of the amortizable bond premium disallowable as a deduction pursuant to subdivision (b) of Section 24360, and in the case of any other bond, as defined in Section 24363, to the extent of the deductions allowable pursuant to subdivision (a) of Section 24360 (or the amount applied to reduce interest payments under paragraph (2) of subdivision (a) of Section 24363.5) with respect thereto.

(3) In the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to Section 24273, and to the extent of any deficiency on that loan with respect to which the taxpayer has been relieved from liability.

(e) For amounts allowed as deductions as deferred expenses under Section 616(b) of the Internal Revenue Code, relating to certain expenditures in the development of mines, and resulting in a reduction of the taxpayer's tax, but not less than the amounts allowable under that section for the income year and prior years.

(f) For amounts allowable as deductions as deferred expenses under Section 617(a) of the Internal Revenue Code, relating to certain exploration expenditures, and resulting in a reduction of the taxpayer's tax, but not less than the amounts allowable under that section for the income year and prior years.

(g) For amounts allowed as deductions as deferred expenses

under subdivision (a) of Section 24366, relating to research and experimental expenditures, and resulting in a reduction of the bank or corporations' taxes under this part, but not less than the amounts allowable under that section for the income year and prior years.

(h) For amounts allowed as deductions under Sections 24356.2, 24356.3, and 24356.4.

(i) (1) To the extent provided in Section 179A(e)(6)(A) of the Internal Revenue Code, relating to basis reduction for clean-fuel vehicles and certain refueling property.

(2) This subdivision shall apply to property placed in service after June 30, 1993, without regard to income year.

SEC. 12. Section 24966.3 is added to the Revenue and Taxation Code, to read:

24966.3. The amendments to Section 1060 of the Internal Revenue Code made by Section 13261(e) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to amortization of goodwill and certain other intangibles, shall apply.

SEC. 13. Section 24990.8 is added to the Revenue and Taxation Code, to read:

24990.8. The amendments to Section 1245 of the Internal Revenue Code made by paragraphs (4) and (5) of Section 13261(f) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to amortization of goodwill and certain other intangibles, shall apply.

SEC. 14. Section 24990.9 is added to the Revenue and Taxation Code, to read:

24990.9. The amendments to Section 1253 of the Internal Revenue Code, relating to transfers of franchises, trademarks, and trade names by Section 13261(c) of the Revenue Reconciliation Act of 1993 (P.L. 103-66), relating to amortization of goodwill and certain other intangibles, shall apply.

SEC. 15. Section 25128 of the Revenue and Taxation Code is amended to read:

25128. (a) Notwithstanding Section 38006, all business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four, except as provided in subdivision (b) or (c).

(b) If a taxpayer derives more than 50 percent of its "gross business receipts" from conducting one or more qualified business activities, all business income of the taxpayer shall be apportioned to this state by multiplying business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

(c) For purposes of this section, a "qualified business activity" means the following:

(1) An agricultural business activity.

(2) An extractive business activity.

(3) A savings and loan activity.

(4) A banking or financial business activity.

(d) For purposes of this section:

(1) "Gross business receipts" means gross receipts described in subdivision (e) of Section 25120 (other than gross receipts excluded in paragraph (5) of this subdivision), whether or not the receipts are excluded from the sales factor by operation of Section 25137.

(2) "Agricultural business activity" means activities relating to any stock, dairy, poultry, fruit, furbearing animal, or truck farm, plantation, ranch, nursery, or range. "Agricultural business activity" also includes activities relating to cultivating the soil or raising or harvesting any agricultural or horticultural commodity, including, but not limited to, the raising, shearing, feeding, caring for, training, or management of animals on a farm as well as the handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated.

(3) "Extractive business activity" means activities relating to the production, refining, or processing of oil, natural gas, or mineral ore.

(4) "Savings and loan activity" means any activities performed by savings and loan associations or savings banks which have been chartered by federal or state law.

(5) "Banking or financial business activity" means activities attributable to dealings in money or moneyed capital in substantial competition with the business of national banks.

(6) Paragraph (4) of subdivision (c) shall apply only if the Franchise Tax Board adopts the Proposed Multistate Tax Commission Formula for the Uniform Apportionment of Net Income from Financial Institutions, or its substantial equivalent, and shall become operative upon the same operative date as the adopted formula.

(7) In any case where the income and apportionment factors of two or more affiliated banks, savings associations, or corporations are required to be included in a combined report under Section 25101, both of the following shall apply:

(A) The application of the 50 percent test of subdivision (b) shall be made with respect to the "gross business receipts" of the entire group, excluding gross receipts from sales or other transactions between members of the group.

(B) The entire business income of the group shall be apportioned in accordance with either subdivision (a) or (b), as applicable.

SEC. 16. It is the intent of the Legislature that the Franchise Tax Board staff take into account the principles of Section 197 of the Internal Revenue Code, as incorporated by this act into Part 10 (commencing with Section 17001) and Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, in resolving issues involving the amortization of intangible assets for periods prior to the enactment of this act so as to produce consistent results for similarly situated taxpayers. However, no inference is intended that any deduction should be allowed in these cases for

assets that are not amortizable under either Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code as they read immediately prior to the amendments made by this act.

SEC. 17. At least 45 days before adoption of any regulation that adopts the Proposed Multistate Tax Commission Formula for the Uniform Apportionment of Net Income from Financial Institutions, or its substantial equivalent, the Franchise Tax Board shall report to the Legislature the board staff's estimate of the impact on franchise and income tax revenues as a result of the adoption of the regulation. That report shall compare the revenue resulting from the law in existence immediately prior to the enactment of this act, to the revenue resulting from adoption, by regulation, of the Proposed Multistate Tax Commission Formula.

SEC. 18. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 862

An act to add and repeal Section 21083.8 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 25, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The Legislature hereby declares its intent that, if there is sufficient federal funding available and an environmental impact statement for a military base reuse plan has not been prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) prior to the preparation of an environmental impact report pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), a state or local lead agency shall make reasonable and feasible efforts to prepare the environmental impact report jointly with the preparation of the environmental impact statement by the federal lead agency. If such a joint report and statement is not feasible, it is the intent of the Legislature that the state or local lead agency prepare an environmental impact report, but may utilize, pursuant to Section 21083.8 of the Public Resources Code, an environmental impact statement if one has been prepared.

It is not the intent of the Legislature in enacting this act to prevent a local agency from utilizing other provisions of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that may be relevant.

SEC. 2. Section 21083.8 is added to the Public Resources Code, to

read:

21083.8. (a) For the purposes of this section, the following terms have the following meaning:

(1) "Reuse plan" means an initial plan for the reuse of a military base adopted by a local government or a redevelopment agency in the form of a general plan, general plan amendment, specific plan, redevelopment plan, or other planning document.

(2) "Base" means any military base either closed by, or scheduled for closure by, the federal government.

(b) If an environmental impact statement on the closure and reuse of a military base has been prepared and filed pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.), the lead agency that is responsible for the preparation of an environmental impact report for a reuse plan for the same base may proceed in the following manner:

(1) A notice of the preparation of an environmental impact report on a reuse plan shall be prepared pursuant to either Section 21080.4 or 21080.6 and shall include a description of the reuse plan and a copy of the environmental impact statement. The notice shall indicate that the lead agency intends to utilize the environmental impact statement as a draft environmental impact report and requests comments on whether, and to what extent, the environmental impact statement provides adequate information to serve as a draft environmental impact report, and what specific additional information, if any, is necessary to comply with this division. The notice shall also indicate the address to which written comments may be sent and the deadline for submitting comments.

(2) Upon the close of the comment period on the notice of preparation, the lead agency may proceed with preparation of the environmental impact report on the reuse plan. The lead agency shall, to the greatest extent feasible, avoid duplication and utilize information in the environmental impact statement consistent with this division. The draft environmental impact report shall consist of all or part of the environmental impact statement and any additional information that is necessary to prepare a draft environmental impact report in compliance with this division.

(3) In all other respects, the environmental impact report for the reuse plan shall be completed in compliance with this division.

(c) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2001, deletes or extends that date.

SEC. 3. This act shall become operative only if Assembly Bill 3774 is also enacted and takes effect on or before January 1, 1995.

CHAPTER 863

An act to amend Sections 290, 290.1, and 4852.01 of the Penal Code, relating to sex offenders.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220, or of any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or of any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 288.5, 289, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who since that date has been or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time, register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities.

(b) Any person who, after August 1, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as

a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the

Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(2) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(4) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to

the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1, 288, or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates any of the provisions of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not less than 90 days nor more than one year. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

(2) Any person who has two prior convictions for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a public offense and shall be punished by imprisonment in a county jail for not exceeding one year or by imprisonment in the state prison for 16 months, or two or three years.

The existence of any fact which would bring a person under this paragraph shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision

shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 1.1. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of assault with intent to commit a violation of subdivision (b) of Section 207, subdivision (b) or (c) of Section 243.4, or subdivision (a), (b), or (c) of Section 311.4, rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220, or of any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or of any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 288.5, 289, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who since that date has been or is hereafter convicted in any other state, or in any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time, register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and,

additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to

the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(2) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(4) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement,

fingerprints, and photograph to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates any of the provisions of this section shall be punished by imprisonment in the state prison for 16 months, or two or three years, or in a county jail for not less than 90 days nor more than one year. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

(2) Any person who has been convicted of any violation of Section 288 and who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years. Any person who has a prior conviction of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years. If, after discharge from parole, the person is convicted of a felony as specified in this paragraph, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this paragraph. A person convicted of a felony as specified in this paragraph may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

The existence of any fact which would bring a person under this paragraph shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 1.2. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220, or of any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or of any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 288.5, 289, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date

or at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission attempted commission of one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who since that date has been or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time, register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities.

(b) Any person who, after August 1, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction

which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court

pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1, 288, or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates any of the provisions of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not less than 90 days nor more than one year. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of

confinement in a county jail and of completing probation of at least one year.

(2) Any person who has two prior convictions for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a public offense and shall be punished by imprisonment in a county jail for not exceeding one year or by imprisonment in the state prison for 16 months, or two or three years.

The existence of any fact which would bring a person under this paragraph shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 1.3. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged,

or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(2) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(4) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the

Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Any person required to register under this section based on a felony conviction who willfully violates this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

(m) A felony conviction under this section shall not constitute a present felony conviction for purposes of subdivisions (b) to (i), inclusive, of Section 667, or Section 1170.12 if added to this code by initiative statute at the November 8, 1994, general election.

(n) The Department of Corrections shall not take custody of any person who is convicted under this section if, as a result of its taking custody of the person, a person who was convicted of a serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, must be released.

SEC. 1.4. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of assault with intent to commit a violation of subdivision (b) of Section 207, subdivision (b) or (c) of Section 243.4, or subdivision (a), (b), or (c) of Section 311.4, rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220, or of any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or of any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 288.5, 289, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, of or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who since that date has been or is hereafter convicted in any other state, or in any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time, register with the chief of police of the city in which he or she is domiciled, or the sheriff of

the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the

Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the

destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates any of the provisions of this section shall be punished by imprisonment in the state prison for 16 months, or two or three years, or in a county jail for not less than 90 days nor more than one year. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

(2) Any person who has been convicted of any violation of Section 288 and who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years. Any person who has a prior conviction of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years. If, after discharge from parole, the person is convicted of a felony as specified in this paragraph, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this paragraph. A person convicted of a felony as specified in this paragraph may be granted probation only in the unusual case where the interests of

justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

The existence of any fact which would bring a person under this paragraph shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 1.5. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an

unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified

in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been

adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(2) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(4) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform,

in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(3) Any person required to register under this section based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the

time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

(m) A felony conviction under this section shall not constitute a present felony conviction for purposes of subdivisions (b) to (i), inclusive, of Section 667, or Section 1170.12 if added to this code by initiative statute at the November 8, 1994, general election.

(n) The Department of Corrections shall not take custody of any person who is convicted under this section if, as a result of its taking custody of the person, a person who was convicted of a serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, must be released.

SEC. 1.6. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its

facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge,

parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable by one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement

agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Any person required to register under this section based on a felony conviction who willfully violates this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in

Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

(m) A felony conviction under this section shall not constitute a present felony conviction for purposes of subdivisions (b) to (i), inclusive, of Section 667, or Section 1170.12 if added to this code by initiative statute at the November 8, 1994, general election.

(n) The Department of Corrections shall not take custody of any person who is convicted under this section if, as a result of its taking custody of the person, a person who was convicted of a serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, must be released.

SEC. 1.7. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction

which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable by one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court

pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison,

or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(3) Any person required to register under this section based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision

shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

(m) A felony conviction under this section shall not constitute a present felony conviction for purposes of subdivisions (b) to (i), inclusive, of Section 667, or Section 1170.12 if added to this code by initiative statute at the November 8, 1994, general election.

(n) The Department of Corrections shall not take custody of any person who is convicted under this section if, as a result of its taking custody of the person, a person who was convicted of a serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, must be released.

SEC. 2. Section 290.1 of the Penal Code is amended to read:

290.1. Notwithstanding Section 1203.4 and except as provided in Section 290.5, a person who is convicted of a sex offense for which registration is required under Section 290 shall not be relieved from the duty to register under that section.

SEC. 3. Section 4852.01 of the Penal Code is amended to read:

4852.01. (a) Any person convicted of a felony who has been released from a state prison or other state penal institution or agency in California, whether discharged on completion of the term for which he was sentenced or released on parole prior to May 13, 1943, who has not been incarcerated in a state prison or other state penal institution or agency since his release and who presents satisfactory evidence of a three-year residence in this state immediately prior to the filing of the petition for a certificate of rehabilitation and pardon provided for by this chapter, may file such petition pursuant to the provisions of this chapter.

(b) Any person convicted of a felony who, on May 13, 1943, was confined in a state prison or other institution or agency to which he was committed and any person convicted of a felony after that date who is committed to a state prison or other institution or agency may file a petition for a certificate of rehabilitation and pardon pursuant to the provisions of this chapter.

(c) Any person convicted of a felony or any person who is convicted of a misdemeanor violation of any sex offense specified in Section 290 the accusatory pleading of which has been dismissed

pursuant to Section 1203.4 may file a petition for certificate of rehabilitation and pardon pursuant to the provisions of this chapter; provided the petitioner has not been incarcerated in any prison, jail, detention facility or other penal institution or agency since the dismissal of the accusatory pleading and is not on probation for the commission of any other felony, and petitioner presents satisfactory evidence of three years residence in this state prior to the filing of the petition.

(d) This chapter shall not apply to persons serving a mandatory life parole; to persons committed under death sentences; or to persons in the military service.

SEC. 4. (a) Section 1.1 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 1211. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 290 of the Penal Code, (3) AB 2500 and AB 3513 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1211, in which case Sections 1, 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 2500. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 290 of the Penal Code, (3) AB 1211 and AB 3513 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 2500, in which case Sections 1, 1.1, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 3513. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 290 of the Penal Code, (3) AB 1211 and AB 2500 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 3513, in which case Sections 1, 1.1, 1.2, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(d) Section 1.4 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill, AB 1211, and AB 2500. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1995, (2) all three bills amend Section 290 of the Penal Code, (3) AB 3513 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1211 and AB 2500, in which case Sections 1, 1.1, 1.2, 1.3, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(e) Section 1.5 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill, AB 1211, and AB 3513. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1995, (2) all three bills amend Section 290 of the Penal Code, (3) AB 2500 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1211 and AB

3513, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.6, and 1.7 of this bill shall not become operative.

(f) Section 1.6 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill, AB 2500, and AB 3513. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1995, (2) all three bills amend Section 290 of the Penal Code, (3) AB 1211 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2500 and AB 3513, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.7 of this bill shall not become operative.

(g) Section 1.7 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill, AB 1211, AB 2500, and AB 3513. It shall only become operative if (1) all four bills are enacted and become effective on January 1, 1995, (2) all four bills amend Section 290 of the Penal Code, and (3) this bill is enacted after AB 1211, AB 2500, and AB 3513, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 of this bill shall not become operative.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 864

An act to amend Section 290 of the Penal Code, relating to registration of sex offenders.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of the offense of assault with intent to commit a violation of subdivision (b) of Section 207, subdivision (b) or (c) of Section 243.4, or subdivision (a), (b), or (c) of Section 311.4, rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220, or of any offense defined in paragraph (1), (2),

(3), (4), or (6) of subdivision (a) of Section 261, or any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 288.5, 289, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since that date or is hereafter convicted in any other state, or in any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time, register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency

or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies, and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(2) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she

was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) Prior to discharge or parole from the Department of the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(4) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25 years.

(5) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 years or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section

who willfully violates any of the provisions of this section shall be punished by imprisonment in the state prison for 16 months, or two or three years, or a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

(2) Any person who has been convicted of any violation of Section 288 and who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years. Any person who has a prior conviction of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony, punishable by imprisonment in the state prison for 16 months, or two or three years. If, after discharge from parole, the person is convicted of a felony as specified in this paragraph, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this paragraph. A person convicted of a felony as specified in this paragraph may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

The existence of any fact which would bring a person under this paragraph shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision

shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 865

An act to amend Section 290 of the Penal Code, relating to sex offenders.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration

with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the

person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies, and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph

(1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(2) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) Prior to discharge or parole from the Department of the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(4) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25 years.

(5) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 years or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The

Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Any person required to register under this section based on a felony conviction who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years. If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 1.1. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies, and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her

discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(2) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) Prior to discharge or parole from the Department of the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(4) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25 years.

(5) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 years or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(3) Any person required to register under this section based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of

a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 1.2. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and

county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the

official in charge of the place of confinement or hospital and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies, and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or

paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable by one or more the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25 years.

(7) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 years or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Any person required to register under this section based on a felony conviction who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender"

includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 1.3. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article

1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or

discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(2) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(4) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to

the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Any person required to register under this section based on a felony conviction who willfully violates this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined

on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 1.4. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any

person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one

copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies, and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable by one or more the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the

Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25 years.

(7) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 years or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(3) Any person required to register under this section based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be

temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 1.5. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct

under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy

to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the following offenses shall be subject to registration under the procedures of this section:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(2) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(3) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed

of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(4) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(3) Any person required to register under this section based on a felony conviction who willfully violates this section or who has two

prior convictions for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) The statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any

provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 1.6. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court

in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable by one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Any person required to register under this section based on a felony conviction who willfully violates this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 1.7. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision

(a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to

reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable by one or more the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph

(1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section

based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(3) Any person required to register under this section based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a

regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 2. (a) Section 1.1 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 1211. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 290 of the Penal Code, (3) AB 2500 and AB 3456 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1211, in which case Sections 1, 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 2500. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 290 of the Penal Code, (3) AB 1211 and AB 3456 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 2500, in which case Sections 1, 1.1, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 3456. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 290 of the Penal Code, (3) AB 1211 and AB 2500 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 3456, in which case Sections 1, 1.2, 1.4, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(d) Section 1.4 of this bill incorporates amendments to Section 290

of the Penal Code proposed by this bill, AB 1211, and AB 2500. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1995, (2) all three bills amend Section 290 of the Penal Code, (3) AB 3456 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1211 and AB 2500, in which case Sections 1, 1.2, 1.3, 1.5, 1.6, and 1.7 of this bill shall not become operative.

(e) Section 1.5 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill, AB 1211, and AB 3456. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1995, (2) all three bills amend Section 290 of the Penal Code, (3) AB 2500 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1211 and AB 3456, in which case Sections 1, 1.2, 1.3, 1.4, 1.6, and 1.7 of this bill shall not become operative.

(f) Section 1.6 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill, AB 2500, and AB 3456. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1995, (2) all three bills amend Section 290 of the Penal Code, (3) AB 1211 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2500 and AB 3456, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.7 of this bill shall not become operative.

(g) Section 1.7 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill, AB 1211, AB 2500, and AB 3456. It shall only become operative if (1) all four bills are enacted and become effective on January 1, 1995, (2) all four bills amend Section 290 of the Penal Code, and (3) this bill is enacted after AB 1211, AB 2500, and AB 3456, in which case Sections 1, 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6 of this bill shall not become operative.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 866

An act to amend Section 290.3 of, and to add Section 290.7 to, the Penal Code, relating to sex offenders.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 290.3 of the Penal Code is amended to read:

290.3. (a) Every person who is convicted of any offense specified in subdivision (a) of Section 290 shall, in addition to any imprisonment or fine, or both, imposed for violation of the underlying offense, be punished by a fine of two hundred dollars ($200) upon the first conviction or a fine of three hundred dollars ($300) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine. An amount equal to all fines collected pursuant to this subdivision during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested for, or convicted of, committing an offense specified in subdivision (a) of Section 290, shall be transferred once a month by the county treasurer to the Controller for deposit in the General Fund. Moneys deposited in the General Fund pursuant to this subdivision shall be transferred by the Controller as provided in subdivision (b).

(b) Out of the moneys deposited pursuant to subdivision (a) as a result of second and subsequent convictions of Section 290, one-third shall first be transferred to the Sexual Habitual Offender Fund, as provided in paragraph (1) of this subdivision. Out of the remainder of all moneys deposited pursuant to subdivision (a), 50 percent shall be transferred to the Sexual Habitual Offender Fund, as provided in paragraph (1), 25 percent shall be transferred to the DNA Testing Fund, as provided in paragraph (2), and 25 percent shall be allocated equally to counties that maintain a local DNA testing laboratory, as provided in paragraph (3).

(1) Those moneys so designated shall be transferred to the Department of Justice Sexual Habitual Offender Fund created pursuant to paragraph (5) of subdivision (b) of Section 11170 and, when appropriated by the Legislature, shall be used for the purposes of Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4 for the purpose of monitoring, apprehending, and prosecuting sexual habitual offenders.

(2) Those moneys so designated shall be directed to the Department of Justice and transferred to the Department of Justice DNA Testing Fund, which is hereby created, for the exclusive purpose of testing deoxyribonucleic acid (DNA) samples for law enforcement purposes. The moneys in that fund shall be available for

expenditure upon appropriation by the Legislature.

(3) Those moneys so designated shall be allocated equally and distributed quarterly to counties that maintain a local DNA testing laboratory. Before making any allocations under this paragraph, the Controller shall deduct the estimated costs that will be incurred to set up and administer the payment of these funds to the counties. Any funds allocated to a county pursuant to this paragraph shall be used by that county for the exclusive purpose of testing DNA samples for law enforcement purposes.

SEC. 2. Section 290.3 of the Penal Code is amended to read:

290.3. (a) Every person who is convicted of any offense specified in subdivision (a) of Section 290 shall, in addition to any imprisonment or fine, or both, imposed for violation of the underlying offense, be punished by a fine of two hundred dollars ($200) upon the first conviction or a fine of three hundred dollars ($300) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

An amount equal to all fines collected pursuant to this subdivision during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested for, or convicted of, committing an offense specified in subdivision (a) of Section 290, shall be transferred once a month by the county treasurer to the Controller for deposit in the General Fund. Moneys deposited in the General Fund pursuant to this subdivision shall be transferred by the Controller as provided in subdivision (b).

(b) Out of the moneys deposited pursuant to subdivision (a) as a result of second and subsequent convictions of Section 290, one-third shall first be transferred to the Sexual Habitual Offender Fund, as provided in paragraph (1) of this subdivision. Out of the remainder of all moneys deposited pursuant to subdivision (a), 50 percent shall be transferred to the Sexual Habitual Offender Fund, as provided in paragraph (1), 25 percent shall be transferred to the DNA Testing Fund, as provided in paragraph (2), and 25 percent shall be allocated equally to counties that maintain a local DNA testing laboratory, as provided in paragraph (3).

(1) Those moneys so designated shall be transferred to the Department of Justice Sexual Habitual Offender Fund created pursuant to paragraph (5) of subdivision (b) of Section 11170 and, when appropriated by the Legislature, shall be used for the purposes of Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4 for the purpose of monitoring, apprehending, and prosecuting sexual habitual offenders.

(2) Those moneys so designated shall be directed to the Department of Justice and transferred to the Department of Justice DNA Testing Fund, which is hereby created, for the exclusive purpose of testing deoxyribonucleic acid (DNA) samples for law enforcement purposes. The moneys in that fund shall be available for

expenditure upon appropriation by the Legislature.

(3) Those moneys so designated shall be allocated equally and distributed quarterly to counties that maintain a local DNA testing laboratory. Before making any allocations under this paragraph, the Controller shall deduct the estimated costs that will be incurred to set up and administer the payment of these funds to the counties. Any funds allocated to a county pursuant to this paragraph shall be used by that county for the exclusive purpose of testing DNA samples for law enforcement purposes.

(c) Notwithstanding any other provision of this section, the Department of Corrections or the Department of the Youth Authority may collect a fine imposed pursuant to this section from a person convicted of a violation of any offense listed in subdivision (a) of Section 290, that results in incarceration in a facility under the jurisdiction of the Department of Corrections or the Department of the Youth Authority. All moneys collected by the Department of Corrections or the Department of the Youth Authority under this subdivision shall be transferred, once a month, to the Controller for deposit in the General Fund, as provided in subdivision (a), for transfer by the Controller, as provided in subdivision (b).

SEC. 3. Section 290.7 is added to the Penal Code, to read:

290.7. The Department of Corrections shall provide samples of blood and saliva taken from a prison inmate pursuant to subdivision (a) of Section 290.2 to the county in which the inmate is to be released if the county maintains a local DNA testing laboratory.

SEC. 4. Section 2 of this bill incorporates amendments to Section 290.3 of the Penal Code proposed by both this bill and AB 2500. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 290.3 of the Penal Code, and (3) this bill is enacted after AB 2500, in which case Section 1 of this bill shall not become operative.

CHAPTER 867

An act to amend Sections 290 and 290.3 of, and to add and repeal Section 290.4 of, the Penal Code, relating to sex offenders, and making an appropriation therefor.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. This bill shall be known and may be cited as the Child Protective Act of 1994.

SEC. 2. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of the offense of assault with intent

to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220, or of any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 288.5, 289, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since that date or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time, register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities.

(b) Any person who, after August 1, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy

to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies, and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25 years.

(7) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 years or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of

the new place of residence.

(g) (1) Any person required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1, 288, or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates any of the provisions of this section is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

(2) Any person who has two prior convictions for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison for 16 months, or two or three years.

The existence of any fact which would bring a person under this paragraph shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person temporarily released under guard from

the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 2.1. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of the offense of assault with intent to commit a violation of subdivision (b) of Section 207, subdivision (b) or (c) of Section 243.4, or subdivision (a), (b), or (c) of Section 311.4, rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220, or of any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 288.5, 289, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since that date or is hereafter convicted in any other state, or in any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time, register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State

University if he or she is domiciled upon the campus or in any of its facilities.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies, and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the

appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25 years.

(7) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 years or has his or her records sealed under the procedures set forth in Section 781 of the

Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates any of the provisions of this section shall be punished by imprisonment in the state prison for 16 months, or two or three years, or a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

(2) Any person who has been convicted of any violation of Section 288 and who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years. Any person who has a prior conviction of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony, punishable by imprisonment in the state prison for 16 months, or two or three years. If, after discharge from parole, the person is convicted of a felony as specified in this paragraph, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this paragraph. A

person convicted of a felony as specified in this paragraph may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

The existence of any fact which would bring a person under this paragraph shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 2.2. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of assault with intent to commit

rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220, or of any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or of any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 288.5, 289, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is discharged or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who since that date has been or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time, register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities.

(b) Any person who, after August 1, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person

and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation,

or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any

person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1, 288, or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates any of the provisions of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not less than 90 days nor more than one year. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

(2) Any person who has two prior convictions for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a public offense and shall be punished by imprisonment in a county jail for not exceeding one year or by imprisonment in the state prison for 16 months, or two or three years.

The existence of any fact which would bring a person under this paragraph shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual

psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 2.3. Section 290 of the Penal Code is amended to read:

290. (a) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of assault with intent to commit a violation of subdivision (b) of Section 207, subdivision (b) or (c) of Section 243.4, or subdivision (a), (b), or (c) of Section 311.4, rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220, or of any offense defined in paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or of any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, or of any offense defined in Section 264.1, 266, 267, 285, 286, 288, 288a, 288.5, 289, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since that date or at any time hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the above-mentioned offenses; or any person who since that date or at any time hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who since that date has been or is hereafter convicted in any other state, or in any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall, within 30 days after the effective date of this section or within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time, register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities.

(b) Any person who, after August 1, 1950, is released, discharged,

or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) The registration shall consist of (1) a statement in writing signed by the person, giving information as may be required by the Department of Justice, and (2) the fingerprints and photograph of the person. Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, and photograph to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section who violates any of its provisions is guilty of a misdemeanor. Any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates any of the provisions of this section shall be punished by imprisonment in the state prison for 16 months, or two or three years, or in a county jail for not less than 90 days nor more than one year. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

(2) Any person who has been convicted of any violation of Section 288 and who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years. Any person who has a prior conviction of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years. If, after discharge from parole, the person is convicted of a felony as specified in this paragraph, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this paragraph. A person convicted of a felony as specified in this paragraph may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

The existence of any fact which would bring a person under this

paragraph shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 2.4. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that

length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the

official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies, and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the

Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable by one or more the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25 years.

(7) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 years or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or

registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Any person required to register under this section based on a felony conviction who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual

psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 2.5. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempt to commit one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division

6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempt to commit one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies, and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon

payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable by one or more the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, all persons subject to registration shall be informed of the duty to register under the procedures set forth in this section.

Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) The duty to register under this section for offenses adjudicated by a juvenile court shall terminate when a person reaches the age of 25 years.

(7) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person required to register attains the age of 25 years or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code, whichever event occurs first. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state

prison for 16 months, or two or three years.

(3) Any person required to register under this section based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender"

includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 2.6. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in this state of a violation of subdivision (b) of Section 207, Section 220, except assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article

1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or

discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable by one or more of the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section.

Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Any person required to register under this section based on a felony conviction who willfully violates this section is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision,

"parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 2.7. Section 290 of the Penal Code is amended to read:

290. (a) (1) Every person described in paragraph (2), for the rest of his or her life while residing in California, shall be required to register with the chief of police of the city in which he or she is domiciled, or the sheriff of the county if he or she is domiciled in an unincorporated area, and, additionally, with the chief of police of a campus of the University of California or the California State University if he or she is domiciled upon the campus or in any of its facilities, within 14 days of coming into any county, city, or city and county in which he or she temporarily resides or is domiciled for that length of time. The person shall be required annually thereafter, within 10 days of his or her birthday, to update his or her registration with the entities described in this paragraph, including, verifying his or her address on a form as may be required by the Department of Justice.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of subdivision (b) of Section 207, Section 220, except

assault to commit mayhem, or 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261 or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6 or former Section 647a, subdivision (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272, or of any felony violation of Section 288.2; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) Any person who, since July 1, 1944, has been, or is hereafter convicted in any other court, including any federal or military court, of any offense which, if committed or attempted in this state, would have been punishable as one or more of the offenses described in subparagraph (A).

(E) Any person ordered by any court to register pursuant to this section for any offense not included specifically in this section if the court finds at the time of conviction that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration.

(b) Any person who, after August 1, 1950, is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined because of the commission or attempted commission of one of the offenses specified in subdivision (a) or is released from a state hospital to which he or she was committed as a mentally disordered sex offender under Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, shall, prior to discharge, parole, or release, be informed of his or her duty to register under this section by the official in charge of the place of confinement or hospital, and the official shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his or her discharge, parole, or release and shall report the address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person and shall send one copy to the Department

of Justice and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. If the conviction which makes the person subject to this section is a felony conviction, the official in charge shall, not later than 45 days prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency which prosecuted the person; and one copy to the Department of Justice. The official in charge of the place of confinement shall retain one copy. All forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted within those times as to be received by the local law enforcement agency or agencies and prosecuting agency 30 days prior to the discharge, parole, or release of the person.

(c) Any person who, after August 1, 1950, is convicted in this state of the commission or attempted commission of any of the offenses specified in subdivision (a) and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted, and the court shall require the person to read and sign any form that may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him or her. The court shall obtain the address where the person expects to reside upon release or discharge and shall report within three days the address to the Department of Justice. The court shall give one copy of the form to the person, send one copy to the Department of Justice, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(d) (1) Any person who, on or after January 1, 1986, is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offenses described in paragraph (3) shall be subject to registration under the procedures of this section.

(2) Any person who, on or after January 1, 1995, is discharged or paroled from a facility in another state that is equivalent to the Department of the Youth Authority, to the custody of which he or she was committed because of an offense which, if committed or attempted in this state, would have been punishable by one or more the offenses described in paragraphs (3) and (4), shall be subject to registration under the procedures of this section.

(3) The following offenses shall apply for the purpose of this subdivision:

(A) Assault with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 under Section 220.

(B) Any offense defined in Section 288 or 288.5, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 286, paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of, Section 288a, paragraph (2) of subdivision (a) of Section 261, or subdivision (a) of Section 289.

(C) Any offense under Section 264.1 involving rape in concert with force or fear of bodily injury or penetration by any foreign object in concert with force or fear of bodily injury.

(4) Any person who is discharged or paroled from the Department of the Youth Authority to the custody of which he or she was committed after having been adjudicated a ward of the court pursuant to Section 602 of the Welfare and Institutions Code because of the commission or attempted commission of the offense set forth in Section 647.6, occurring on or after January 1, 1988, shall be subject to registration under the procedures of this section.

(5) Prior to discharge or parole from the Department of the Youth Authority, any person who is subject to registration shall be informed of the duty to register under the procedures set forth in this section. Department of the Youth Authority officials shall transmit the required forms and information to the Department of Justice.

(6) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register or has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case which are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.

(e) (1) The registration shall consist of the following:

(A) A statement in writing signed by the person, giving information as may be required by the Department of Justice.

(B) The fingerprints and photograph of the person.

(C) The license plate number of any vehicle owned by or registered in the name of the person.

(2) Within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the Department of Justice.

(f) If any person who is required to register pursuant to this section changes his or her residence address, the person shall inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address. The law enforcement agency or agencies shall, within three days after receipt of this information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of

the new place of residence.

(g) (1) Any person who is required to register under this section based on a misdemeanor conviction who willfully violates this section is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year.

(2) Notwithstanding paragraph (1), any person who has been convicted of assault with intent to commit rape, oral copulation, or sodomy under Section 220, any violation of Section 264.1 or 289 under Section 220, any violation of Section 261, any offense defined in paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to state prison, or any violation of Section 264.1, 286, 288, 288a, 288.5, or 289, and who is required to register under this section who willfully violates this section is guilty of a felony punishable by imprisonment in the state prison for 16 months, or two or three years.

(3) Any person required to register under this section based on a felony conviction who willfully violates this section or who has a prior conviction for the offense of failing to register under this section and who subsequently and willfully commits that offense is, upon each subsequent conviction, guilty of a felony and shall be punished by imprisonment in the state prison for 16 months or two or three years.

A person punished pursuant to this paragraph or paragraph (2) shall be sentenced to serve a term of not less than 90 days nor more than one year in a county jail. In no event does the court have the power to absolve a person who willfully violates this section from the obligation of spending at least 90 days of confinement in a county jail and of completing probation of at least one year.

If the person has been sentenced to a term of imprisonment in the state prison, the penalty described in this paragraph shall apply whether or not the person has been released on parole or has been discharged from parole.

(4) If, after discharge from parole, the person is convicted of a felony as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

(h) Whenever any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the parole authority, the Youthful Offender Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, "parole authority" has the same meaning as described in Section 3000.

(i) Except as provided in Section 290.4, the statements,

photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(*l*) Every person who, prior to January 1, 1985, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 30 to 14 days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 30 days.

SEC. 3. Section 290.3 of the Penal Code is amended to read:

290.3. (a) Every person convicted of a violation of any offense listed in subdivision (a) of Section 290, in addition to any imprisonment or fine, or both, imposed for violation of the underlying offense, shall be punished by a fine of one hundred dollars ($100) upon the first conviction or a fine of two hundred dollars ($200) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

(b) Out of the moneys deposited with the county treasurer pursuant to this section, there shall be transferred, once a month, to the Controller for deposit in the General Fund, an amount equal to all fines collected during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested for, or convicted of, committing an offense listed in Section 290. Moneys deposited in the General Fund pursuant to this section shall be deposited in the Department of Justice Sexual Habitual Offender Fund created pursuant to paragraph (5) of subdivision (b) of Section 11170 and, when appropriated by the Legislature, shall be used for the purposes of Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4 for the purpose of monitoring, apprehending, and prosecuting sexual habitual offenders.

(c) Notwithstanding subdivision (b), the Department of Corrections or the Department of the Youth Authority may collect a fine imposed pursuant to this section from a person convicted of a violation of any offense listed in subdivision (a) of Section 290, that results in incarceration in a facility under the jurisdiction of the Department of Corrections or the Department of the Youth Authority. All moneys collected by the Department of Corrections or the Department of the Youth Authority under this subdivision shall be transferred, once a month, to the Controller for deposit in the General Fund, as provided in subdivision (b), for deposit in the Department of Justice Sexual Habitual Offender Fund.

SEC. 3.5. Section 290.3 of the Penal Code is amended to read:

290.3. (a) Every person who is convicted of any offense specified in subdivision (a) of Section 290 shall, in addition to any imprisonment or fine, or both, imposed for violation of the underlying offense, be punished by a fine of two hundred dollars ($200) upon the first conviction or a fine of three hundred dollars ($300) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

An amount equal to all fines collected pursuant to this subdivision during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested for, or convicted of, committing an offense specified in subdivision (a) of Section 290, shall be transferred once a month by the county treasurer to the Controller for deposit in the General Fund. Moneys deposited in the General Fund pursuant to this subdivision shall be transferred by the Controller as provided in subdivision (b).

(b) Out of the moneys deposited pursuant to subdivision (a) as a result of second and subsequent convictions of Section 290, one-third shall first be transferred to the Sexual Habitual Offender Fund, as provided in paragraph (1) of this subdivision. Out of the remainder of all moneys deposited pursuant to subdivision (a), 50 percent shall be transferred to the Sexual Habitual Offender Fund, as provided in paragraph (1), 25 percent shall be transferred to the DNA Testing Fund, as provided in paragraph (2), and 25 percent shall be allocated equally to counties that maintain a local DNA testing laboratory, as provided in paragraph (3).

(1) Those moneys so designated shall be transferred to the Department of Justice Sexual Habitual Offender Fund created pursuant to paragraph (5) of subdivision (b) of Section 11170 and, when appropriated by the Legislature, shall be used for the purposes of Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4 for the purpose of monitoring, apprehending, and prosecuting sexual habitual offenders.

(2) Those moneys so designated shall be directed to the Department of Justice and transferred to the Department of Justice DNA Testing Fund, which is hereby created, for the exclusive

purpose of testing deoxyribonucleic acid (DNA) samples for law enforcement purposes. The moneys in that fund shall be available for expenditure upon appropriation by the Legislature.

(3) Those moneys so designated shall be allocated equally and distributed quarterly to counties that maintain a local DNA testing laboratory. Before making any allocations under this paragraph, the Controller shall deduct the estimated costs that will be incurred to set up and administer the payment of these funds to the counties. Any funds allocated to a county pursuant to this paragraph shall be used by that county for the exclusive purpose of testing DNA samples for law enforcement purposes.

(c) Notwithstanding any other provision of this section, the Department of Corrections or the Department of the Youth Authority may collect a fine imposed pursuant to this section from a person convicted of a violation of any offense listed in subdivision (a) of Section 290, that results in incarceration in a facility under the jurisdiction of the Department of Corrections or the Department of the Youth Authority. All moneys collected by the Department of Corrections or the Department of the Youth Authority under this subdivision shall be transferred, once a month, to the Controller for deposit in the General Fund, as provided in subdivision (a), for transfer by the Controller, as provided in subdivision (b).

SEC. 4. Section 290.4 is added to the Penal Code, to read:

290.4. (a) (1) The Department of Justice shall continually compile information as described in paragraph (2) regarding any person required to register under Section 290 for a conviction of Section 261 if the victim is a minor, or Section 266 or 267, subdivision (b) or (c) of Section 286, Section 288, paragraph (2) of subdivision (b) or subdivision (c) of Section 288a, Section 288.5, subdivision (i) or (j) of Section 289, Section 647.6, or the statutory predecessor of any of these offenses. This requirement shall not be applied to a person whose duty to register has been terminated pursuant to paragraphs (6) and (7) of subdivision (d) of Section 290, or to a person who has been relieved of his or her duty to register under Section 290.5.

(2) The information shall include the names of these persons categorized by community of residence and ZIP Code. The information shall include a physical description and criminal history and the address of these persons.

(3) The department shall operate a "900" telephone number that members of the public may call and inquire whether a named individual is listed among those described in this subdivision. The caller shall furnish his or her first name, middle initial, and last name. The department shall ascertain whether a named person reasonably appears to be a person so listed and provide the caller with the information described in paragraph (2), except the department shall not disclose the address or criminal history of a person listed, except to describe the specific crimes for which the registrant was required to register. The department shall decide whether the named person reasonably appears to be a person listed, based upon information

from the caller providing information that shall include (A) an exact street address, including apartment number, social security number, California driver's license or identification number, or birth date along with additional information that may include any of the following: name, hair color, eye color, height, weight, distinctive markings, ethnicity; or (B) any combination of at least six of the above listed characteristics if an exact birth date or address is not available. If three of the characteristics provided include ethnicity, hair color, and eye color, a seventh identifying characteristic shall be provided. Any information identifying the victim by name, birth date, address, or relation to the registrant shall be excluded by the department.

(4) (A) The income from the operation of the "900" number shall be deposited in the Sexual Predator Public Information Account, which is hereby established within the Department of Justice for the purpose of the implementation of this section by the Department of Justice, including all actual and reasonable costs related to establishing and maintaining the information described in subdivision (a) and the subdirectory described in this subdivision.

(B) The moneys in the Sexual Predator Public Information Account shall consist of income from the operation of the "900" telephone number program authorized by this section, proceeds of the loan made pursuant to Section 6 of the act adding this section, and any other funds made available to the account by the Legislature. Moneys in the account shall be available to the Department of Justice upon appropriation by the Legislature for the purpose specified in subparagraph (A).

(C) When the "900" number is called, a preamble shall be played before charges begin to accrue. The preamble shall run at least the length of time required by federal law and shall provide the following information:

(i) Notice that the caller's telephone number will be recorded.

(ii) The charges for use of the "900" number.

(iii) Notice that the caller is required to identify himself or herself to the operator.

(iv) Notice that the caller is required to be 18 years of age or older.

(v) A warning that it is illegal to use information obtained through the "900" number to commit a crime against any registrant or to engage in illegal discrimination or harassment against any registrant.

(vi) Notice that the caller is required to have the birth date, California driver's license or identification number, social security number, or address or other identifying information regarding the person about whom information is sought in order to achieve a positive identification of that person.

(vii) A statement that the number is not a crime hotline and that any suspected criminal activity should be reported to local authorities.

(viii) A statement that the caller should have a reasonable suspicion that a child is at risk.

(D) The Department of Justice shall expend no more than six hundred thousand dollars ($600,000) per year from any moneys appropriated by the Legislature from the account.

(b) (1) The Department of Justice shall maintain a subdirectory of persons described in subdivision (a) who are deemed by the department to be sexual habitual offenders and a threat to the public safety. The subdirectory shall include a photograph of the offender along with the following information, if available: name, physical description, age, and distinctive markings. The subdirectory shall not include the exact address or the criminal history of the person listed, except to describe the specific crimes for which the registrant was required to register.

(2) The subdirectory shall be organized by county and ZIP Code.

(3) A copy of the subdirectory shall annually be distributed to the offices of county sheriffs and police departments for purposes of public access.

(4) County sheriff's and police departments may require that a person express an articulable purpose in order to have access to the subdirectory.

(5) Any information identifying the victim by name, birthdate, address, or relation to the registrant shall be excluded from the subdirectory distributed for purposes of public access.

(c) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to, any other punishment, by a five-year term of imprisonment in the state prison.

(2) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000).

(d) Any person who makes a photocopy of any part of the subdirectory of sexual habitual offenders is guilty of a misdemeanor, punishable by imprisonment in the county jail not to exceed six months or by a fine not exceeding one thousand dollars ($1,000), or by both. This subdivision shall not apply to a law enforcement officer who makes a photocopy as part of his or her official duties in the course of a criminal investigation or court case.

(e) Unauthorized removal of the subdirectory of sexual habitual offenders from the offices of county sheriffs or any police department is a misdemeanor, punishable by imprisonment in the county jail not to exceed one year or by a fine not exceeding one thousand dollars ($1,000), or by both.

(f) (1) A person is authorized to use information disclosed pursuant to this section only to protect a child at risk. Authorized use includes, but is not limited to, either of the following:

(A) A person in a position of authority or special trust who by reason of that position is able to exercise undue influence over a minor. A position of authority includes, but is not limited to, a natural parent, adoptive parent, stepparent, foster parent, relative,

household member, adult youth leader, recreational director who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, or employer.

(B) A person possessing a license or holding an employment or volunteer position with supervisory or disciplinary power over a minor or any person under his or her care, a person who supervises a slumber party, or a babysitter.

This act shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 226.55 of the Civil Code, Sections 777.5 and 14409.2 of the Financial Code, Sections 1596.871 and 1597.81 of the Health and Safety Code, and Section 432.7 of the Labor Code.

(2) Except as authorized under another provision of law, use of any of the following information disclosed pursuant to this section is prohibited:

(A) Health insurance.

(B) Insurance.

(C) Loans.

(D) Credit.

(E) Employment, except as specified in paragraph (1) of subdivision (f).

(F) Education, scholarships, or fellowships.

(G) Housing or accommodations.

(H) Benefits, privileges, or services provided by any business establishment.

(3) (A) Any use of information disclosed pursuant to this section for purposes other than those provided by paragraph (1) of subdivision (f) or in violation of paragraph (2) of subdivision (f) shall make the user liable for the actual damages, and any amount that may be determined by a jury or a court sitting without a jury, not exceeding three times the amount of actual damage, and not less than two hundred fifty dollars ($250), and attorney's fees, exemplary damages, or a civil penalty not exceeding twenty-five thousand dollars ($25,000).

(B) Whenever there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of misuse of the "900" number in violation of paragraph (2) of subdivision (f), the Attorney General, any district attorney, or city attorney, or any person aggrieved by the misuse of that number is authorized to bring a civil action in the appropriate court requesting preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or group of persons responsible for the pattern or practice of misuse. The foregoing remedies shall be independent of any other remedies or procedures that may be available to an aggrieved party under other provisions of law, including Part 2 (commencing with Section 43) of Division 1 of the Civil Code.

(g) This section shall not be deemed to authorize the publication, distribution, or disclosure of the address of any person about whom

information can be published, distributed, or disclosed pursuant to this section.

(h) The Department of Justice shall submit to the Legislature an annual report on the operation of the "900" telephone number required by paragraph (3) of subdivision (a) on July 1, 1996, July 1, 1997, and July 1, 1998. The annual report shall include all of the following:

(1) Number of calls received.

(2) Amount of income earned per year through operation of the "900" telephone number.

(3) A detailed outline of the amount of money expended and the manner in which it was expended for purposes of this section.

(4) Number of calls that resulted in an affirmative response and the number of calls that resulted in a negative response with regard to whether a named individual was listed pursuant to subdivision (a).

(5) Number of persons listed pursuant to subdivision (a).

(6) A summary of the success of the "900" telephone number program based upon selected factors.

(i) The "900" telephone number program authorized by this section shall terminate operation on January 1, 1998.

(j) This section shall become operative on July 1, 1995, and shall become inoperative on January 1, 1999, and as of that date is repealed unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4.5. (a) Section 2.1 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 1211. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 290 of the Penal Code, (3) AB 3456 and AB 3513 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 1211, in which case Sections 2, 2.2, 2.3, 2.4, 2.5, 2.6, and 2.7 of this bill shall not become operative.

(b) Section 2.2 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 3456. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 290 of the Penal Code, (3) AB 1211 and AB 3513 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 3456 in which case Sections 2, 2.1, 2.3, 2.4, 2.5, 2.6, and 2.7 of this bill shall not become operative.

(c) Section 2.3 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill, AB 1211, and AB 3456. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1995, (2) all three bills amend Section 290 of the Penal Code, (3) AB 3513 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1211 and AB 3456, in which case Sections 2, 2.1, 2.2, 2.4, 2.5, 2.6, and 2.7 of this bill shall not become operative.

(d) Section 2.4 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 3513. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 290 of the Penal Code, (3) AB 1211 and AB 3456 are not enacted or as enacted do not amend that section, and (4) this bill is enacted after AB 3513, in which case Sections 2, 2.1, 2.2, 2.3, 2.5, 2.6, and 2.7 of this bill shall not become operative.

(e) Section 2.5 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill, AB 1211, and AB 3513. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1995, (2) all three bills amend Section 290 of the Penal Code, (3) AB 3456 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1211 and AB 3513, in which case Sections 2, 2.2, 2.3, 2.4, 2.6, and 2.7 of this bill shall not become operative.

(f) Section 2.6 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill, AB 3513, and AB 3456. It shall only become operative if (1) all three bills are enacted and become effective on January 1, 1995, (2) all three bills amend Section 290 of the Penal Code, (3) AB 1211 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 3513 and AB 3456, in which case Sections 2, 2.1, 2.2, 2.3, 2.4, 2.5, and 2.7 of this bill shall not become operative.

(g) Section 2.7 of this bill incorporates amendments to Section 290 of the Penal Code proposed by this bill, AB 1211, AB 3513, and AB 3456. It shall only become operative if (1) all four bills are enacted and become effective on January 1, 1995, (2) all four bills amend Section 290 of the Penal Code, and (3) this bill is enacted after AB 1211, AB 3513, and AB 3456, in which case Sections 2, 2.1, 2.2, 2.3, 2.4, 2.5, and 2.6 of this bill shall not become operative.

SEC. 4.7. Section 3.5 of this bill incorporates amendments to Section 290.3 of the Penal Code proposed by both this bill and AB 304. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 290.3 of the Penal Code, and (3) this bill is enacted after AB 304, in which case Section 3 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 6. (a) The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the Sexual Predator Public Information

Account to the Department of Justice for the purpose of implementing this act.

(b) The Department of Finance shall transfer the sum of five hundred thousand dollars ($500,000) from a special account used by the Department of Justice that is not in the General Fund to the Sexual Predator Public Information Account as a loan. That money shall be repaid from the Sexual Predator Public Information Account with interest at the Pooled Money Investment Account rate not later than January 1, 1998.

SEC. 7. This act shall become operative only if Assembly Bill 3026 of the 1993–94 Regular Session is enacted and becomes effective on or before January 1, 1995.

CHAPTER 868

An act to add Section 6103.7 to the Business and Professions Code, relating to attorneys.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. No later than March 1, 1995, the State Bar of California shall submit to the Supreme Court for approval a rule of professional conduct governing trial publicity and extrajudicial statements made by attorneys concerning adjudicative proceedings.

SEC. 2. The Legislature finds and declares the following:

(1) Recent legal proceedings have generated extraordinary media coverage and raised serious questions regarding the potentially prejudicial and otherwise harmful effect of some media coverage. Important constitutional issues of free speech, the right to a fair trial, and related questions are implicated and require thorough review by the State Bar.

(2) In light of the fact that the American Bar Association has now reformed its rule on this subject, it is appropriate to require the State Bar to commence and complete its rulemaking process no later than March 1, 1995.

(3) During the rulemaking process, the State Bar shall, among other materials, review and consider the American Bar Association's Model Rule 3.6, as modified.

SEC. 3. It is the intent of the Legislature in enacting this act to memorialize the Supreme Court expeditiously to review and, as appropriate, approve the rule adopted by the State Bar pursuant to this section.

CHAPTER 869

An act to add Section 1669.7 to the Civil Code, and to amend Section 1122 of, and to add Sections 116.5 and 132.5 to, the Penal Code, relating to trials.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1669.7 is added to the Civil Code, to read:

1669.7. A contract for the payment of money or other consideration in violation of Section 132.5 of the Penal Code is void as contrary to public policy. The Attorney General or the district attorney of the county in which a violation of Section 132.5 of the Penal Code occurs may bring a civil action, or intervene in any civil action, to enjoin the enforcement of a contract that violates that section.

SEC. 2. Section 116.5 is added to the Penal Code, to read:

116.5. (a) A person is guilty of tampering with a jury when, prior to, or within 90 days of, discharge of the jury in a criminal proceeding, he or she does any of the following:

(1) Confers, or offers or agrees to confer, any payment or benefit upon a juror or upon a third person who is acting on behalf of a juror in consideration for the juror or third person supplying information in relation to an action or proceeding.

(2) Acting on behalf of a juror, accepts or agrees to accept any payment or benefit for himself or herself or for the juror in consideration for supplying any information in relation to an action or proceeding.

(3) Acting on behalf of himself or herself, agrees to accept, directly or indirectly, any payment or benefit in consideration for supplying any information in relation to an action or proceeding.

(b) Any person who violates this section is guilty of a misdemeanor.

(c) In the case of a juror who is within 90 days of having been discharged, otherwise lawful compensation not exceeding fifty dollars ($50) in value shall not constitute a criminal violation of this section.

(d) Upon conviction under this section, in addition to the penalty described in subdivision (b), any compensation received in violation of this section shall be forfeited by the defendant and deposited in the Victim Restitution Fund.

SEC. 3. Section 132.5 is added to the Penal Code, to read:

132.5. (a) A person who is a witness to an event or occurrence that he or she knows, or reasonably should know, is a crime or who has personal knowledge of facts that he or she knows, or reasonably should know, may require that person to be called as a witness in a

criminal prosecution shall not accept or receive, directly or indirectly, any payment or benefit in consideration for providing information obtained as result of witnessing the event or occurrence or having personal knowledge of the facts.

(b) A violation of this section is a misdemeanor and shall be punished by imprisonment in a county jail for not exceeding six months, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(c) Upon conviction under this section, in addition to the penalty described in subdivision (b), any compensation received in violation of this section shall be forfeited by the defendant and deposited in the Victim Restitution Fund.

(d) This section shall not apply if more than one year has elapsed from the date of any criminal act related to the information that is provided under subdivision (a) unless prosecution has commenced for that criminal act. If prosecution has commenced, this section shall remain applicable until the final judgment in the action.

(e) This section shall not apply to any of the following circumstances:

(1) Lawful compensation paid to expert witnesses, investigators, employees, or agents by a prosecutor, law enforcement agency, or an attorney employed to represent a person in a criminal matter.

(2) Lawful compensation provided to an informant by a prosecutor or law enforcement agency.

(3) Compensation paid to a publisher, editor, reporter, writer, or other person connected with or employed by a newspaper, magazine, or other publication or a television or radio news reporter or other person connected with a television or radio station, for disclosing information obtained in the ordinary course of business.

(4) Statutorily authorized rewards offered by governmental agencies for information leading to the arrest and conviction of specified offenders.

(f) For purposes of this section, "information" does not include a photograph, videotape, audiotape, or any other direct recording of events or occurrences.

SEC. 4. Section 1122 of the Penal Code is amended to read:

1122. (a) After the jury has been sworn and before the people's opening address, the court shall instruct the jury generally concerning its basic functions, duties, and conduct. The instructions shall include, among other matters, admonitions that the jurors shall not converse among themselves, or with anyone else, on any subject connected with the trial; that they shall not read or listen to any accounts or discussions of the case reported by newspapers or other news media; that they shall not visit or view the premises or place where the offense or offenses charged were allegedly committed or any other premises or place involved in the case; that prior to, and within 90 days of, discharge, they shall not request, accept, agree to accept, or discuss with any person receiving or accepting, any payment or benefit in consideration for supplying any information

concerning the trial; and that they shall promptly report to the court any incident within their knowledge involving an attempt by any person to improperly influence any member of the jury.

(b) The jury shall also, at each adjournment of the court before the submission of the cause to the jury, whether permitted to separate or kept in charge of officers, be admonished by the court that it is their duty not to converse among themselves, or with anyone else, on any subject connected with the trial, or to form or express any opinion thereon until the cause is finally submitted to them.

SEC. 5. If any provision enacted by this act, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provision or application of this act that can be given effect without the invalid provision or application, and to this end those provisions are severable.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 870

An act to add Sections 132.5 and 1122.5 to the Penal Code, relating to criminal procedure.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 132.5 is added to the Penal Code, to read:

132.5. (a) The Legislature supports and affirms the constitutional right of every person to communicate on any subject. This section is intended to preserve the right of every accused person to a fair trial, the right of the people to due process of law, and the integrity of judicial proceedings. This section is not intended to prevent any person from disseminating any information or opinion.

The Legislature hereby finds and declares that the disclosure for valuable consideration of information relating to crimes by prospective witnesses can cause the loss of credible evidence in criminal trials and threatens to erode the reliability of verdicts.

The Legislature further finds and declares that the disclosure for

valuable consideration of information relating to crimes by prospective witnesses creates an appearance of injustice that is destructive of public confidence.

(b) A person who is a witness to an event or occurrence that he or she knows is a crime or who has personal knowledge of facts that he or she knows or reasonably should know may require that person to be called as a witness in a criminal prosecution shall not accept or receive, directly or indirectly, any money or its equivalent in consideration for providing information obtained as result of witnessing the event or occurrence or having personal knowledge of the facts.

(c) Any person who is a witness to an event or occurrence that he or she reasonably should know is a crime shall not accept or receive, directly or indirectly, any money or its equivalent in consideration for providing information obtained as a result of his or her witnessing the event or occurrence.

(d) The Attorney General or the district attorney of the county in which an alleged violation of subdivision (c) occurs may institute a civil proceeding. Where a final judgment is rendered in the civil proceeding, the defendant shall be punished for the violation of subdivision (c) by a fine equal to 150 percent of the amount received or contracted for by the person.

(e) A violation of subdivision (b) is a misdemeanor punishable by imprisonment for a term not exceeding six months in a county jail, a fine not exceeding three times the amount of compensation requested, accepted, or received, or both the imprisonment and fine.

(f) This section does not apply if more than one year has elapsed from the date of any criminal act related to the information that is provided under subdivision (b) or (c) unless prosecution has commenced for that criminal act. If prosecution has commenced, this section shall remain applicable until the final judgment in the action.

(g) This section does not apply to any of the following circumstances:

(1) Lawful compensation paid to expert witnesses, investigators, employees, or agents by a prosecutor, law enforcement agency, or an attorney employed to represent a person in a criminal matter.

(2) Lawful compensation provided to an informant by a prosecutor or law enforcement agency.

(3) Compensation paid to a publisher, editor, reporter, writer, or other person connected with or employed by a newspaper, magazine, or other publication or a television or radio news reporter or other person connected with a television or radio station, for disclosing information obtained in the ordinary course of business.

(4) Statutorily authorized rewards offered by governmental agencies for information leading to the arrest and conviction of specified offenders.

(h) For purposes of this section, "information" does not include a photograph, videotape, audiotape, or any other direct recording of

an event or occurrence.

SEC. 2. Section 1122.5 is added to the Penal Code, to read:

1122.5. (a) The court, in its discretion, may, at each adjournment of the court before the submission of the cause to the jury, admonish the jury, whether permitted to separate or kept in charge of officers, that, on pain of contempt of court, no juror shall, prior to discharge, accept, agree to accept, or benefit, directly or indirectly, from any payment or other consideration for supplying any information concerning the trial.

(b) In enacting this section, the Legislature recognizes that the appearance of justice, and justice itself, may be undermined by any juror who, prior to discharge, accepts, agrees to accept, or benefits from valuable consideration for providing information concerning a criminal trial.

SEC. 3. If any provision enacted by this act, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provision or application of this act that can be given effect without the invalid provision or application, and to this end those provisions are severable.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 871

An act to amend Section 6385 of, and to add Section 6389 to, the Family Code, and to amend Section 12028.5 of the Penal Code, relating to domestic violence.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 6385 of the Family Code is amended to read:

6385. (a) Except as provided in subdivision (b), on receipt of a copy of a protective order, as defined in Section 6218, the local law enforcement agency having jurisdiction over the residence of the petitioner shall immediately notify the Department of Justice regarding the name, race, date of birth, and other personal descriptive information as required by a form prescribed by the

Department of Justice, the date of issuance of the order, and the duration of the order or its expiration date.

(b) Proof of service of the protective order is not required for the purposes of this section if the order indicates on its face that both parties were personally present at the hearing where the order was issued and that, for the purpose of Section 6384, no proof of service is required.

(c) The failure of the local law enforcement agency to provide the Department of Justice with the personal descriptive information regarding the person restrained does not invalidate the protective order.

(d) If a court issues a modification, extension, or termination of the protective order described in subdivision (a), the court shall notify the law enforcement agency having jurisdiction over the residence of the petitioner. The law enforcement agency shall then immediately notify the Department of Justice.

(e) There is no civil liability on the part of, and no cause of action arises against, an employee of a local law enforcement agency or the Department of Justice, acting within the scope of employment, if a person described in subdivision (g) of Section 12021 of the Penal Code unlawfully purchases, receives, owns, or possesses, or attempts to purchase, receive, own, or possess a firearm and a person is injured by that firearm or a person who is otherwise entitled to receive a firearm is denied a firearm and either wrongful action is due to a failure of a court to provide the notification provided for in this section.

SEC. 2. Section 6389 is added to the Family Code, to read:

6389. (a) A person subject to a protective order, as defined in Section 6218, may not own or possess a firearm while that protective order is in effect when prohibited by an order issued pursuant to this section.

(b) The Judicial Council shall provide a notice on all forms requesting a protective order that, at the hearing for a protective order, the respondent may be ordered to relinquish possession or control of any firearms for a period not to exceed the duration of the restraining order.

(c) If the respondent is present in court at a duly noticed hearing, and if the court determines by a preponderance of the evidence that the respondent is likely to use or display or threaten to use a firearm in any further act of violence, the court may order the respondent to relinquish any firearm in that person's immediate possession or control, or subject to that person's immediate possession or control, within 24 hours of the order, by either surrendering the firearm to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer, as specified in Section 12071 of the Penal Code. If the respondent is not present at the hearing, the respondent shall relinquish the firearm within 48 hours after being served with the order. A person ordered to relinquish any firearm pursuant to this subdivision shall file with the court a receipt showing

the firearm was surrendered to the local law enforcement agency or sold to a licensed gun dealer within 72 hours after receiving the order. However, a court may either extend or shorten these time requirements based upon good cause shown. In the event that it is necessary to continue the date of any hearing due to a request for a relinquishment order pursuant to this section, the court shall ensure that all applicable protective orders described in Section 6218 remain in effect or bifurcate the issues and grant the permanent restraining order pending the date of the hearing.

(d) If the respondent declines to relinquish possession of any firearm based upon the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm.

(e) A local law enforcement agency may charge the respondent a fee for the storage of any firearm pursuant to this section. This fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm. For purposes of this subdivision, "actual cost" means expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed dealer as defined in Section 12071 of the Penal Code or to the respondent.

(f) Any restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall state on its face that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. Nothing in this section shall limit a respondent's right under existing law to petition the court at a later date for modification of the order.

(g) Any restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall prohibit the person from possessing or controlling any firearm for the duration of the order, unless a shorter time period is specified by the court. At the expiration of the order, the local law enforcement agency shall return possession of any surrendered firearm to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that either (1) the firearm has been stolen or (2) the respondent is prohibited from possessing a firearm because the respondent is in any prohibited class for the possession of firearms, as defined in Sections 12021 and 12021.1 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code. If the local law enforcement agency determines that the respondent is the legal owner of any firearm deposited with the local law enforcement agency and is prohibited from possessing any firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section 12071 of the Penal

Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon his or her identification of the firearm and proof of ownership.

(h) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the respondent can show that a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from his or her place of employment.

(i) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

(j) The disposition of any unclaimed property under this section shall be made pursuant to Section 1413 of the Penal Code.

(k) The return of a firearm to any person pursuant to subdivision (g) shall not be subject to the requirements of subdivision (d) of Section 12072 of the Penal Code.

(*l*) If the judge orders the person subject to the protective order to relinquish his or her firearms and the defendant notifies the court that he or she owns a firearm that is not in his or her immediate possession, the court may limit the order to exclude that firearm if the judge is satisfied the defendant will not gain access to that firearm while the protective order is in effect.

(m) Any respondent to a protective order who violates any order issued pursuant to this section is guilty of a misdemeanor, which shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

SEC. 3. Section 12028.5 of the Penal Code is amended to read:

12028.5. (a) As used in this section, the following definitions shall apply:

(1) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(2) "Family violence" has the same meaning as domestic violence as defined in subdivision (b) of Section 13700, and also includes any abuse perpetrated against a family or household member.

(3) "Family or household member" means a spouse, former spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any person who regularly resides or who regularly resided in the household.

The presumption applies that the male parent is the father of any child of the female pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code).

(4) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a member of the University of California Police Department, as defined in subdivision (c) of Section 830.2, an officer listed in Section 830.6 while acting in the course and scope of his or her employment as a peace officer, a member of a California State University Police Department, as defined in subdivision (d) of Section 830.2, a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, and a peace officer, as defined in Section 830.5, who is at the scene of a family violence incident involving a threat to human life or a physical assault, may take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm. The receipt shall indicate where the firearm or other deadly weapon can be recovered and the date after which the owner or possessor can recover the firearm or other deadly weapon. No firearm or other deadly weapon shall be held less than 48 hours. Except as provided in subdivision (e), if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the family violence incident or is not retained because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure. In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within 72 hours following the initial seizure, except as provided in subdivision (c) or (e), the court shall allow reasonable attorney's fees to the prevailing party.

(c) Any firearm or other deadly weapon which has been taken into custody that has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm or other deadly weapon and proof of ownership.

(d) Any firearm or other deadly weapon taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, by a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, by a peace officer, as defined in subdivision (d) of Section 830.31, or by a peace officer, as defined in Section 830.5, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028. Firearms or other deadly weapons not recovered within 12 months due to an extended hearing process as provided in subdivision (i), are not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

(e) In those cases where a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, the agency shall advise the owner of the firearm or other deadly weapon, and within 10 days of the seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

(f) The law enforcement agency shall inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person's last known address by registered mail, return receipt requested, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon. For the purposes of this subdivision, the person's last known address shall be presumed to be the address provided to the law enforcement officer by that person at the time of the family violence incident. In the event the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to learn the whereabouts of the person and to comply with these notification requirements.

(g) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing. Unless it is shown by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party.

(h) If the person does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in

Section 12028.

(i) If, at the hearing, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing. If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Section 12028.

(j) The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this section.

SEC. 4. Section 1 of this act shall not become operative if Assembly Bill 3034 of the 1993–94 Regular Session is chaptered and amends Section 6385 of the Family Code, regardless of the order of chaptering. In that event, it is the intent of the Legislature that Section 6385 of the Family Code, as amended by Assembly Bill 3034 shall become effective and operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Moreover, no reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for other costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law for those other costs.

CHAPTER 872

An act to amend Sections 6381, 6383, and 6385 of, and to repeal and add Section 6380 of the Family Code, and to amend Section 12028.5 of the Penal Code, relating to domestic violence, and making an appropriation therefor.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 6380 of the Family Code is repealed.

SEC. 2. Section 6380 is added to the Family Code, to read:

6380. (a) Each county, with the approval of the Department of Justice, shall, by July 1, 1996, develop a procedure, using existing systems, for the electronic transmission of data, as described in subdivision (b), to the Department of Justice. The data shall be electronically transmitted through the California Law Enforcement Telecommunications System (CLETS) of the Department of Justice by law enforcement personnel, or with the approval of the Department of Justice, court personnel or another appropriate agency capable of maintaining and preserving the integrity of both the CLETS and the Domestic Violence Restraining Order Registry, as described in subdivision (e). Data entry is required to be entered only once under the requirements of this section, unless the order is served at a later time. A portion of all fees payable to the Department of Justice under subdivision (e) of Section 1203.097 of the Penal Code for the entry of the information required under this section, based upon the proportion of the costs incurred by the local agency and those incurred by the Department of Justice, shall be transferred to the local agency actually providing the data.

(b) Upon the issuance of a protective order, the Department of Justice shall be immediately notified of the contents of the order and the following information:

(1) The name, race, date of birth, and other personal descriptive information of the respondent as required by a form prescribed by the Department of Justice.

(2) The names of the protected persons.

(3) The date of issuance of the order.

(4) The duration or expiration date of the order.

(5) The terms and conditions of the protective order, including stay-away, no-contact, and residency exclusion provisions of the order.

(6) The department or division number and the address of the court.

(7) Whether or not the order was served upon the respondent.

All available information shall be included; however, the inability to provide all categories of information shall not delay the entry of the information available.

(c) The information conveyed to the Department of Justice shall also indicate whether the respondent was present in court to be informed of the contents of the court order. The respondent's presence in court shall provide proof of service of notice of the terms of the protective order. The respondent's failure to appear shall also be included in the information provided to the Department of Justice.

(d) Immediately upon receipt of proof of service the clerk of the court, and immediately after service any law enforcement officer who served the protective order, shall notify the Department of Justice, by electronic transmission, of the service of the protective order, including the name of the person who served the order and, if that person is a law enforcement officer, the law enforcement

agency.

(e) The Department of Justice shall maintain a Domestic Violence Protective Order Registry and shall make available to court clerks and law enforcement personnel, through computer access, all information regarding restraining orders, including criminal court protective orders issued under subdivision (g) of Section 136.2 of the Penal Code, whether or not served upon the respondent.

(f) If a court issues a modification, extension, or termination of a protective order, the transmitting agency for the county shall immediately notify the Department of Justice, by electronic transmission, of the terms of the modification, extension, or termination.

(g) The Judicial Council shall assist local courts charged with the responsibility for issuing protective orders by developing informational packets describing the general procedures for obtaining a domestic violence restraining order and indicating the appropriate Judicial Council forms, and shall include a design, which local courts shall complete, which describes local court procedures and maps to enable applicants to locate filing windows and appropriate courts. The court clerk shall provide a fee waiver form to all applicants for domestic violence protective orders. The court clerk shall provide all Judicial Council forms required by this chapter to applicants free of charge.

(h) For the purposes of this part, "electronic transmission" shall include computer access through the California Law Enforcement Telecommunications System (CLETS).

SEC. 3. Section 6381 of the Family Code is amended to read:

6381. (a) Notwithstanding Section 6380 and subject to subdivision (b), an order issued under this part is enforceable in any place in this state.

(b) An order issued under this part is not enforceable by a law enforcement agency of a political subdivision unless that law enforcement agency has received a copy of the order, or the officer enforcing the order has been shown a copy of the order or has obtained information, through the Domestic Violence Restraining Order Registry maintained by the Department of Justice, of the contents of the order, as described in subdivision (b).

(c) The data contained in the Domestic Violence Restraining Order Registry shall be deemed to be original, self-authenticating, documentary evidence of the court orders. Oral notification of the terms of the orders shall be sufficient notice for enforcement under subdivision (g) of Section 136.2 and Section 273.6 of the Penal Code.

SEC. 4. Section 6383 of the Family Code is amended to read:

6383. (a) An order issued under this part shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported domestic violence involving the parties to the proceeding.

(b) The petitioner shall provide the officer with an endorsed copy

of the order and a proof of service which the officer shall complete and transmit to the issuing court.

(c) It is a rebuttable presumption that the proof of service was signed on the date of service.

(d) Upon receiving information at the scene of a domestic violence incident that a protective order has been issued under this part, or that a person who has been taken into custody is the respondent to such an order, if the protected person cannot produce a certified copy of the order, a law enforcement officer shall immediately inquire of the Department of Justice Domestic Violence Protective Order Registry to verify the existence of the order.

(e) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order. Verbal notice of the terms of the order is sufficient notice for the purposes of this section and for the purposes of Section 273.6 and subdivision (g) of Section 12021 of the Penal Code.

(f) If a report is required under Section 13730 of the Penal Code, or if no report is required, then in the daily incident log, the officer shall provide the name and assignment of the officer notifying the respondent pursuant to subdivision (e) and the case number of the order.

(g) Upon service of the order outside of the court, a law enforcement officer shall advise the respondent to go to the local court to obtain a copy of the order containing the full terms and conditions of the order.

SEC. 5. Section 6385 of the Family Code is amended to read:

6385. (a) On receipt of proof of service of a protective order, as defined in Section 6218, a local law enforcement agency or the court shall immediately notify the Department of Justice, by electronic transmission, regarding the following information:

(1) The name, race, date of birth, and other personal descriptive information of the respondent as required by a form prescribed by the Department of Justice.

(2) The names of the protected persons.

(3) The date of issuance of the order.

(4) The duration or expiration date of the order.

(5) The terms and conditions of the stay-away provisions of the order.

(6) The department or division number and the telephone number of the court.

(b) Proof of service of the protective order is not required for the purposes of this section if the order indicates on its face that both parties were personally present at the hearing where the order was issued and that, for the purpose of Section 6384, no proof of service is required, or if the order was served by a law enforcement officer pursuant to Section 6383.

(c) The failure of the petitioner to provide the Department of

Justice with the personal descriptive information regarding the person restrained does not invalidate the protective order.

(d) There is no civil liability on the part of, and no cause of action arises against, an employee of a local law enforcement agency, a court, or the Department of Justice, acting within the scope of employment, if a person described in subdivision (g) of Section 12021 of the Penal Code unlawfully purchases or receives or attempts to purchase or receive a firearm and a person is injured by that firearm or a person who is otherwise entitled to receive a firearm is denied a firearm and either wrongful action is due to a failure of a court to provide the notification provided for in this chapter.

SEC. 6. Section 12028.5 of the Penal Code is amended to read:

12028.5. (a) As used in this section, the following definitions shall apply:

(1) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(2) "Family violence" has the same meaning as domestic violence as defined in subdivision (b) of Section 13700, and also includes any abuse perpetrated against a family or household member.

(3) "Family or household member" means a spouse, former spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any person who regularly resides or who regularly resided in the household.

The presumption applies that the male parent is the father of any child of the female pursuant to the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code).

(4) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a member of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, a member of the University of California Police Department, as defined in subdivision (c) of Section 830.2, an officer listed in Section 830.6 while acting in the course and scope of his or her employment as a peace officer, a member of a California State University Police Department, as defined in subdivision (d) of Section 830.2, a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, a peace officer, as defined in subdivision (d) of Section 830.31, and a peace officer, as defined in Section 830.5, who is at the scene of a family violence incident involving a threat to human life or a physical assault, may take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the

firearm or other deadly weapon and list any identification or serial number on the firearm. The receipt shall indicate where the firearm or other deadly weapon can be recovered and the date after which the owner or possessor can recover the firearm or other deadly weapon. No firearm or other deadly weapon shall be held less than 48 hours. Except as provided in subdivision (e), if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the family violence incident or is not retained because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure. In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within 72 hours following the initial seizure, except as provided in subdivision (c), the court shall allow reasonable attorney's fees to the prevailing party.

(c) Any firearm or other deadly weapon which has been taken into custody that has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm or other deadly weapon and proof of ownership.

(d) Any firearm or other deadly weapon taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, by a member of the California Highway Patrol, as defined in subdivision (a) of Section 830.2, by a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, by a peace officer, as defined in subdivision (d) of Section 830.31, or by a peace officer, as defined in Section 830.5, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028. Firearms or other deadly weapons not recovered within 12 months due to an extended hearing process as provided in subdivision (i), are not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

(e) In those cases where a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, the agency shall advise the owner of the firearm or other deadly weapon, and within 10 days of the seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

(f) The law enforcement agency shall inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person's last known address by registered mail, return receipt requested, that he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for

a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon. For the purposes of this subdivision, the person's last known address shall be presumed to be the address provided to the law enforcement officer by that person at the time of the family violence incident. In the event the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to learn the whereabouts of the person and to comply with these notification requirements.

(g) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing. Unless it is shown by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party.

(h) If the person does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Section 12028.

(i) If, at the hearing, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing. If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Section 12028.

(j) The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this section.

SEC. 7. Notwithstanding subdivision (f) of Section 12076 of the Penal Code, the sum of two hundred fifty thousand dollars ($250,000) is hereby appropriated from the Dealers' Record of Sale Special Account to the Department of Justice, as follows:

(a) One hundred thousand dollars ($100,000) to modify the restraining order system to comply with the requirements of Section 6380 of the Family Code, as added by this act.

(b) One hundred fifty thousand dollars ($150,000) to reimburse agencies entering the restraining order system during 1995.

SEC. 8. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant

to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 873

An act to amend Sections 273.6 and 12022.7 of, and to add Section 273.55 to, the Penal Code, relating to domestic violence.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 273.55 is added to the Penal Code, to read:

273.55. Any person convicted of violating Section 273.5, for acts occurring within seven years of a previous conviction under subdivision (d) of Section 243, or under Section 243.4, 244, 244.5, 245, or 273.5, if the victim of the prior offense is a person designated under subdivision (a) of Section 273.5, shall be punished by imprisonment in a county jail for not more than one year, or by imprisonment in the state prison for two, four, or five years, or by both imprisonment and a fine of up to ten thousand dollars ($10,000). If probation is granted or the execution or imposition of a sentence is suspended for any person sentenced under this section, Section 273.56 shall apply.

SEC. 2. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any willful and knowing violation of a protective order, as defined in Section 6218 of the Family Code, or of an order issued pursuant to Section 527.6 of the Code of Civil Procedure is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in physical injury, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than 30 days nor more than one year, or by both the fine and imprisonment. However, if the person is imprisoned in a county jail for at least 48 hours, the court may, in the interests of justice and for reasons stated on the record, reduce or eliminate the 30-day minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are

additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) An order enjoining any party from molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, contacting repeatedly by mail with the intent to harass, or disturbing the peace of the other party, or other named family and household members.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the order under subdivision (a).

(d) A subsequent conviction for a violation of an order described in subdivision (a), occurring within seven years of a prior conviction for a violation of an order described in subdivision (a) and involving an act of violence or "a credible threat" of violence, as defined in subdivision (c) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison.

(e) In the event of a subsequent conviction for a violation of an order described in subdivision (a) for an act occurring within one year of a prior conviction for a violation of an order described in subdivision (a) which results in physical injury to the same victim, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than six months nor more than one year, by both that fine and imprisonment, or by imprisonment in the state prison. However, if the person is imprisoned in a county jail for at least 30 days, the court may, in the interests of justice and for reasons stated in the record, reduce or eliminate the six-month minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(f) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to subdivisions (a), (b), (d), and (e).

(g) The court may order a person convicted under this section to undergo counseling, and, if appropriate, to complete a batterer's treatment program.

(h) If probation is granted upon conviction of a violation of subdivision (a), (b), or (c), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of one thousand dollars ($1,000).

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(i) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under subdivision (e), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court-ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 2.1. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any intentional and knowing violation of a protective order, as defined in Section 6218 of the Family Code, or of an order issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in physical injury, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than 30 days nor more than one year, or by both the fine and imprisonment. However, if the person is imprisoned in a county jail for at least 48 hours, the court may, in the interests of justice and for reasons stated on the record, reduce or eliminate the 30-day minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) An order enjoining any party from molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, contacting repeatedly by mail with the intent to harass, or disturbing the peace of the other party, or other named family and household members.

(2) An order excluding one party from the family dwelling or

from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the order under subdivision (a).

(d) A subsequent conviction for a violation of an order described in subdivision (a), occurring within seven years of a prior conviction for a violation of an order described in subdivision (a) and involving an act of violence or "a credible threat" of violence, as defined in subdivision (c) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison.

(e) In the event of a subsequent conviction for a violation of an order described in subdivision (a) for an act occurring within one year of a prior conviction for a violation of an order described in subdivision (a) which results in physical injury to the same victim, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than six months nor more than one year, by both that fine and imprisonment, or by imprisonment in the state prison. However, if the person is imprisoned in a county jail for at least 30 days, the court may, in the interests of justice and for reasons stated in the record, reduce or eliminate the six-month minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(f) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to subdivisions (a), (b), (d), and (e).

(g) The court may order a person convicted under this section to undergo counseling, and, if appropriate, to complete a batterer's treatment program.

(h) If probation is granted upon conviction of a violation of subdivision (a), (b), or (c), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of one thousand dollars ($1,000).

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(i) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under subdivision (e), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court ordered child support. Where the injury to a married person

is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 2.2. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any willful and knowing violation of a protective order, as defined in Section 6218 of the Family Code, or of an order issued pursuant to Section 527.6 of the Code of Civil Procedure is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in physical injury, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than 30 days nor more than one year, or by both the fine and imprisonment. However, if the person is imprisoned in a county jail for at least 48 hours, the court may, in the interests of justice and for reasons stated on the record, reduce or eliminate the 30-day minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) An order enjoining any party from molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, contacting repeatedly by mail with the intent to harass, or disturbing the peace of the other party, or other named family and household members.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the order under subdivision (a).

(d) A subsequent conviction for a violation of an order described in subdivision (a), occurring within seven years of a prior conviction for a violation of an order described in subdivision (a) and involving an act of violence or "a credible threat" of violence, as defined in subdivision (c) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison.

(e) In the event of a subsequent conviction for a violation of an order described in subdivision (a) for an act occurring within one

year of a prior conviction for a violation of an order described in subdivision (a) which results in physical injury to the same victim, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than six months nor more than one year, by both that fine and imprisonment, or by imprisonment in the state prison. However, if the person is imprisoned in a county jail for at least 30 days, the court may, in the interests of justice and for reasons stated in the record, reduce or eliminate the six-month minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(f) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to subdivisions (a), (b), (d), and (e).

(g) The court may order a person convicted under this section to undergo counseling, and, if appropriate, to complete a batterer's treatment program.

(h) If probation is granted upon conviction of a violation of subdivision (a), (b), or (c), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars ($5,000), pursuant to Section 1203.097.

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(i) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under subdivision (e), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 2.3. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any intentional and knowing violation of a protective order, as defined in Section 6218 of the Family Code, or of an order issued pursuant to Section 527.6 or 527.8 of the Code of Civil

Procedure is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in physical injury, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than 30 days nor more than one year, or by both the fine and imprisonment. However, if the person is imprisoned in a county jail for at least 48 hours, the court may, in the interests of justice and for reasons stated on the record, reduce or eliminate the 30-day minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) An order enjoining any party from molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, contacting repeatedly by mail with the intent to harass, or disturbing the peace of the other party, or other named family and household members.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the order under subdivision (a).

(d) A subsequent conviction for a violation of an order described in subdivision (a), occurring within seven years of a prior conviction for a violation of an order described in subdivision (a) and involving an act of violence or "a credible threat" of violence, as defined in subdivision (c) of Section 139, is punishable by imprisonment in a county jail not to exceed one year, or in the state prison.

(e) In the event of a subsequent conviction for a violation of an order described in subdivision (a) for an act occurring within one year of a prior conviction for a violation of an order described in subdivision (a) which results in physical injury to the same victim, the person shall be punished by a fine of not more than two thousand dollars ($2,000), or by imprisonment in a county jail for not less than six months nor more than one year, by both that fine and imprisonment, or by imprisonment in the state prison. However, if the person is imprisoned in a county jail for at least 30 days, the court may, in the interests of justice and for reasons stated in the record, reduce or eliminate the six-month minimum imprisonment required by this subdivision. In determining whether to reduce or eliminate the minimum imprisonment pursuant to this subdivision, the court

shall consider the seriousness of the facts before the court, whether there are additional allegations of a violation of the order during the pendency of the case before the court, the probability of future violations, the safety of the victim, and whether the defendant has successfully completed or is making progress with counseling.

(f) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to subdivisions (a), (b), (d), and (e).

(g) The court may order a person convicted under this section to undergo counseling, and, if appropriate, to complete a batterer's treatment program.

(h) If probation is granted upon conviction of a violation of subdivision (a), (b), or (c), the conditions of probation may include, in lieu of a fine, one or both of the following requirements:

(1) That the defendant make payments to a battered women's shelter, up to a maximum of five thousand dollars ($5,000), pursuant to Section 1203.097.

(2) That the defendant reimburse the victim for reasonable costs of counseling and other reasonable expenses that the court finds are the direct result of the defendant's offense.

(i) For any order to pay a fine, make payments to a battered women's shelter, or pay restitution as a condition of probation under subdivision (e), the court shall make a determination of the defendant's ability to pay. In no event shall any order to make payments to a battered women's shelter be made if it would impair the ability of the defendant to pay direct restitution to the victim or court ordered child support. Where the injury to a married person is caused in whole or in part by the criminal acts of his or her spouse in violation of this section, the community property may not be used to discharge the liability of the offending spouse for restitution to the injured spouse, required by Section 1203.04, or to a shelter for costs with regard to the injured spouse and dependents, required by this section, until all separate property of the offending spouse is exhausted.

SEC. 3. Section 12022.7 of the Penal Code is amended to read:

12022.7. (a) Any person who, with the intent to inflict the injury, personally inflicts great bodily injury on any person other than an accomplice in the commission or attempted commission of a felony shall, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of three years, unless infliction of great bodily injury is an element of the offense of which he or she is convicted.

(b) Any person found to have inflicted great bodily injury pursuant to subdivision (a) which causes the victim to become comatose due to brain injury or to suffer paralysis, as defined in Section 12022.9, of a permanent nature, shall be punished by an additional and consecutive term of five years.

(c) Any person who, with the intent to inflict the injury,

personally inflicts great bodily injury on another person who is 70 years of age or older other than an accomplice in the commission or attempted commission of a felony shall, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of five years, unless infliction of great bodily injury is an element of the offense of which he or she is convicted.

(d) Any person who personally inflicts great bodily injury under circumstances involving domestic violence in the commission or attempted commission of a felony shall, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of three, four, or five years. The court shall order imposition of the middle term unless there are circumstances in aggravation or mitigation. The court shall state its reasons for its enhancement choice on the record at the time of sentencing. As used in this section, "domestic violence" has the meaning provided in subdivision (b) of Section 13700.

(e) As used in this section, "great bodily injury" means a significant or substantial physical injury.

(f) This section shall not apply to murder or manslaughter or a violation of Section 451 or 452. The additional term provided in this section shall not be imposed unless the fact of great bodily injury is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(g) The court shall impose the additional terms of imprisonment under either subdivision (a), (b), or (c), but may not impose more than one of those terms for the same offense.

SEC. 4. The Legislature recommends that the Judicial Council revise Rule 421 of the California Rules of Court before June 1, 1995, to add provisions relating to circumstances in aggravation, as follows:

(a) Facts relating to the crime, whether or not charged or chargeable as enhancements, including the facts that:

(1) The crime involved great violence, great bodily harm, threat of great bodily harm, or other acts disclosing a high degree of cruelty, viciousness, or callousness.

(2) The defendant was armed with or used a weapon at the time of the commission of the crime.

(3) The victim was particularly vulnerable.

(4) The defendant induced others to participate in the commission of the crime or occupied a position of leadership or dominance of other participants in its commission.

(5) The defendant induced a minor to commit or assist in the commission of the crime.

(6) The defendant threatened witnesses, unlawfully prevented or dissuaded witnesses from testifying, suborned perjury, or in any other way illegally interfered with the judicial process.

(7) The defendant was convicted of other crimes for which consecutive sentences could have been imposed but for which

concurrent sentences are being imposed.

(8) The manner in which the crime was carried out indicates planning, sophistication, or professionalism.

(9) The crime involved an attempted or actual taking or damage of great monetary value.

(10) The crime involved a large quantity of contraband.

(11) The defendant took advantage of a position of trust or confidence to commit the offense.

(12) There was a temporary restraining order, injunction, or other court order in effect, protecting the victim of the crime from the defendant.

(b) Facts relating to the defendant, including the facts that:

(1) The defendant has engaged in violent conduct which indicates a serious danger to society.

(2) The defendant's prior convictions as an adult or sustained petitions in juvenile delinquency proceedings are numerous or of increasing seriousness.

(3) The defendant has served a prior prison term.

(4) The defendant was on probation or parole when the crime was committed.

(5) The defendant's prior performance on probation or parole was unsatisfactory.

(6) The defendant was subject to a temporary restraining order which protected the victim of the crime from the defendant.

SEC. 5. (a) Section 2.1 of this bill incorporates amendments to Section 273.6 of the Penal Code proposed by both this bill and AB 68 of the First Extraordinary Session. It shall only become operative if (1) both bills are enacted and become effective, (2) each bill amends Section 273.6 of the Penal Code, (3) AB 93 of the First Extraordinary Session is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 68, in which case, Sections 2, 2.2, and 2.3 of this bill shall not become operative.

(b) Section 2.2 of this bill incorporates amendments to Section 273.6 of the Penal Code proposed by both this bill and AB 93. It shall only become operative if (1) both bills are enacted and become effective, (2) each bill amends Section 273.6 of the Penal Code, (3) AB 68 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 93, in which case Sections 2, 2.1, and 2.3 of this bill shall not become operative.

(c) Section 2.3 of this bill incorporates amendments to Section 273.6 of the Penal Code proposed by this bill, AB 68, and AB 93. It shall only become operative if (1) all three bills are enacted and become effective, (2) all three bills amend Section 273.6 of the Penal Code, and (3) this bill is enacted after AB 68 and AB 93, in which case Sections 2, 2.1, and 2.2 of this bill shall not become operative.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction,

changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 874

An act to add Section 311.1 to the Penal Code, relating to child pornography.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 311.1 is added to the Penal Code, to read:

311.1. (a) Every person who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, or in this state possesses, prepares, publishes, produces, develops, duplicates, or prints, with intent to distribute or to exhibit to, or to exchange with, others, or who offers to distribute, distributes, or exhibits to, or exchanges with, others, any obscene matter, knowing that the matter depicts a person under the age of 18 years personally engaging in or personally simulating sexual conduct, as defined in Section 311.4, shall be punished either by imprisonment in the county jail for up to one year, by a fine not to exceed one thousand dollars ($1,000), or by both the fine and imprisonment, or by imprisonment in the state prison, by a fine not to exceed ten thousand dollars ($10,000), or by the fine and imprisonment.

(b) This section does not apply to the activities of law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities, or to lawful conduct between spouses.

(c) This section does not apply to matter which depicts a child under the age of 18, which child is legally emancipated, including lawful conduct between spouses when one or both are under the age of 18.

(d) It does not constitute a violation of this section for a telephone corporation, as defined by Section 234 of the Public Utilities Code, to carry or transmit messages described in this chapter or perform related activities in providing telephone services.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty

for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 875

An act to add Section 13000 to the Penal Code, relating to the Department of Justice.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 13000 is added to the Penal Code, to read:

13000. (a) All statewide automated fingerprint identification systems shall be maintained by the Department of Justice. For purposes of this section, "automated fingerprint identification system" means electronic comparison of fingerprints to a data base of known persons.

(b) Any state agency is exempted from this section if the agency's director finds that the automated identification system needed to meet programmatic requirements is less costly than an identical system available through an interagency agreement with the Department of Justice, or is not provided by the Department of Justice.

(c) Information contained in these systems shall be released to state agencies only on a need-to-know basis pursuant to any of the following:

(1) Statutory authorization to the extent permitted by federal law.

(2) A court order or decision that requires release of the information.

(3) An interagency agreement with the Department of Justice to develop and operate a system.

(d) The department may charge a fee to be paid by the agency for the actual cost of supporting the service.

CHAPTER 876

An act to amend Section 13823.6 of, and to add Section 13885.15 to, the Penal Code, and to amend Section 1 of Chapter 561 of the Statutes of 1992, relating to sexual assaults of children.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 13823.6 of the Penal Code is amended to read:

13823.6. The office may secure grants, donations, or other funding for the purpose of funding a statewide unit on sexual assault of children, to be known as the Special Unit on Child Exploitation and Assault, which shall be established and administered by the Department of Justice. The Department of Justice may cooperate with other law enforcement agencies to benefit from the expertise of those agencies in this area.

SEC. 2. Section 13885.15 is added to the Penal Code, to read:

13885.15. (a) The special agent teams established pursuant to Section 13885.1 shall also take a proactive role in the investigation and prosecution of preferential child molesters and sexual exploiters.

(b) For purposes of this section, "preferential child molester" means a person whose primary sex drive is directed toward children. A preferential child molester is distinguished from a situational child molester, who will use children sexually in times of stress because of a lack of impulse control or as a result of circumstances.

SEC. 3. Section 1 of Chapter 561 of the Statutes of 1992 is amended to read:

Section 1. (a) The Legislature finds and declares each of the following:

(1) Organized preferential child molesters and sexual exploiters with national and international connections operate in California.

(2) A preferential child molester and sexual exploiter is a person whose sexual preference is that of children.

(3) Runaways and disadvantaged children are targets for exploitation by preferential child molesters and sexual exploiters.

(4) The average preferential child molester and sexual exploiter molests 70 children in a lifetime.

(5) Organized preferential child molesters and sexual exploiters are a statewide problem and investigation of these organizations requires the ability of law enforcement to cross normal jurisdictional boundaries.

"Preferential child molester" is defined as a person whose primary sex drive is directed toward children. A preferential child molester is distinguished from a situational child molester, who will use children sexually in times of stress because of a lack of impulse

control or as a result of circumstances.

(b) The Legislature further finds and declares that for various reasons, including lack of training, expertise, coordination, and priority, organized preferential child molesters and sexual exploiters are not investigated or prosecuted to the fullest extent possible by local and state law enforcement agencies.

(c) The Department of Justice shall create and administer a statewide unit to be known as the Special Unit on Child Exploitation and Assault, to take a proactive role in the investigation and prosecution of preferential child molesters and sexual exploiters.

SEC. 4. Section 2 of this bill, which adds Section 13885.15 to the Penal Code, shall become operative only if Senate Bill 12 of the 1993–94 First Extraordinary Session is chaptered and becomes effective on or before January 1, 1995, in which case Sections 1 and 3 of this bill shall not become operative.

CHAPTER 877

An act to add Section 14201.5 to the Penal Code, relating to the Missing and Exploited Children's Recovery Network.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The Legislature finds and declares that the State of California accounts for 10 percent of the nation's kidnappings. It is widely recognized that there is a significantly higher chance of harm to those children who are abducted by a nonfamily member and that the safe return of a child most often occurs within the first 72 hours.

Furthermore, there is a substantial cost to the state when the search for a missing child is ongoing. Additionally, it is believed that the expeditious distribution of photographs and materials concerning a kidnapping would aid in the timely recovery of victims.

In recognizing that the swift dissemination of information regarding a missing child is crucial in the recovery of missing children, the National Center for Missing and Exploited Children has developed the Missing and Exploited Children Information Network. This network has the technology to provide law enforcement, volunteer groups, and the media with quick access to data and still video images of missing children that are vital in recovering missing children.

As the California clearinghouse for the National Center for Missing and Exploited Children, the Department of Justice should also have the capability to use this technology that could prove critical in the recovery of missing children.

SEC. 2. Section 14201.5 is added to the Penal Code, to read:

14201.5. (a) The Attorney General shall establish within the Department of Justice the Missing and Exploited Children's Recovery Network by July 31, 1995.

(b) This network shall consist of an automated computerized system that shall have the capability to electronically transmit to all state and local law enforcement agencies, and all cooperating news media services, either by facsimile or computer modem, a missing child poster that includes the name, personal description data, and picture of the missing child. The information contained in this poster shall include, but not be limited to, the child's date of birth, color of eyes and hair, sex, height, weight, race, the time and date he or she was reported missing, the reporting agency, including contact person at reporting agency if known, and any other data pertinent to the purpose of locating missing persons.

(c) The Department of Justice shall work in cooperation with the National Center for Missing and Exploited Children to develop and implement a network that can electronically interface with the National Missing and Exploited Children's Network.

(d) The Attorney General shall implement this network within existing Department of Justice resources.

CHAPTER 878

An act to add Section 269 to the Penal Code, relating to sex offenses.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 269 is added to the Penal Code, to read:

269. (a) Any person who commits any of the following acts upon a child who is under 14 years of age and 10 or more years younger than the person is guilty of aggravated sexual assault of a child:

(1) A violation of paragraph (2) of subdivision (a) of Section 261.

(2) A violation of Section 264.1.

(3) Sodomy, in violation of Section 286, when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(4) Oral copulation, in violation of Section 288a, when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(5) A violation of subdivision (a) of Section 289.

(b) Any person who violates this section is guilty of a felony and shall be punished by imprisonment in the state prison for 15 years to life.

CHAPTER 879

An act to amend Sections 7508, 16649.80, 20215, 68504, 68543.5, 68543.7, and 71180.5 of, to add Sections 22754.16 and 22816.31 to, to add Chapter 11.5 (commencing with Section 75500) to Title 8 of, and to repeal Section 75110 of, the Government Code, relating to judges' retirement, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 7508 of the Government Code is amended to read:

7508. A retired member of a state retirement system, other than the University of California Retirement System, the Judges' Retirement System, the Judges' Retirement System II, and the State Teachers' Retirement System, may, notwithstanding Section 9359.12, serve on a public board or commission and be entitled to receive for that service, per diem compensation for every day or portion thereof of actual attendance at meetings of the board or commission or any committee thereof, and necessary traveling expenses incurred in connection with the performance of his or her official duties, without loss or interruption of benefits provided by the system, so long as the service does not exceed a total of 50 meeting days.

This section shall not apply to service as a member of a board or commission the annual salary for which is prescribed by Chapter 6 (commencing with Section 11550) of Division 3 of Title 2.

SEC. 2. Section 16649.80 of the Government Code is amended to read:

16649.80. The definitions in this section shall govern the construction and interpretation of this chapter.

(a) "Investment" or "invest" means the commitment of funds or other assets to a business firm, including a loan or other extension of credit made to that firm, or security given for the other assets to that business enterprise, or the beneficial ownership or control of a share or interest in that business firm, or of a bond or other debt instrument issued by that business firm.

(b) "Business firm" means any foreign or domestic organization, association, corporation, partnership, venture, or other entity, its subsidiary, or affiliate which exists for profitmaking purposes or to otherwise secure economic advantage, other than a financial institution.

(c) "Financial institution" means any foreign or domestic bank, bank holding company, savings and loan association, or credit union, or any foreign or domestic insurance company, brokerage firm, securities firm, investment company, mortgage banking company,

finance company, personal property broker, mortgage loan broker, or consumer credit company, or any affiliate or subsidiary thereof.

(d) "Business arrangements" means projects, ventures, undertakings, contractual relations, or other efforts requiring ongoing or periodic performance by either or both parties.

(e) "Discriminatory business practices" means business arrangements that are prohibited by Sections 16721 and 16721.5 of the Business and Professions Code.

(f) "State trust moneys" means funds administered by the Public Employees' Retirement Fund, the Legislators' Retirement Fund, the State Teachers' Retirement Fund, the Judges' Retirement Fund, the Judges' Retirement System II Fund, the Volunteer Firefighter Fund, the General Fund portion of the University of California Retirement Fund, and any funds invested pursuant to this part.

(g) "State trust fund" means the Public Employees' Retirement Fund, the Legislators' Retirement Fund, the State Teachers' Retirement Fund, the Judges' Retirement Fund, the Judges' Retirement System II Fund, the Volunteer Firefighter Fund, and any investment fund created by this part.

(h) "State moneys" means all money, bonds, and securities in possession of or collected by any state agency.

(i) "Compliance with the Arab League's economic boycott of Israel" means taking any action, with respect to the boycott of Israel by Arab countries, which is prohibited by the United States Export Administration Act of 1979.

SEC. 3. Section 20215 of the Government Code is amended to read:

20215. Notwithstanding any other provision of law, the board may establish a program utilizing the retirement fund to assist system members, through financing, to obtain homes in this state.

For the purpose of this section, the term "member" means any person who is receiving, or is entitled to receive, a retirement allowance funded by this system, the Legislators' Retirement System, the Judges' Retirement System, or the Judges' Retirement System II, notwithstanding any vesting requirement and without regard to present eligibility to retire.

The board shall adopt regulations governing the program which shall, among other things, provide:

(a) That home loans be made available to members for the purchase of single-family dwellings, two-family dwellings, three-family dwellings, four-family dwellings, single-family cooperative apartments, and single-family condominiums.

(b) That private lending institutions in this state shall originate and service its home loans pursuant to agreements entered into between those institutions and the board.

(c) That the recipients of the loans occupy the homes as their permanent residences in accord with rules and regulations established by the board.

(d) That its home loans shall be available only for the purchase or

refinancing of homes in this state and that under no condition shall a member have more than one outstanding loan.

(e) That the amount and length of the loans shall be pursuant to a schedule periodically established by the board which shall provide a loan-to-value ratio of: (1) for the first loan, except for three-family dwellings and four-family dwellings, a maximum of 95 percent of the first loan; (2) for the first loan on three-family dwellings and four-family dwellings, a maximum of 90 percent of the first loan; and (3) for each additional loan, a maximum of 80 percent of each additional loan. The portion of any loan exceeding 80 percent of value shall be insured by an admitted mortgage guaranty insurer conforming to Chapter 2A (commencing with Section 12640.01) of Part 6 of Division 2 of the Insurance Code, in an amount so that the unguaranteed portion of the loan does not exceed 75 percent of the market value of the property together with improvements thereon.

(f) That there may be prepayment penalties assessed on its loans in accordance with rules and regulations established by the board.

(g) That the criteria and terms for its loans shall provide the greatest benefit to members consistent with the financial integrity of the program and the sound investment of the retirement fund.

(h) Any other terms and conditions as the board shall deem appropriate.

(i) This section shall be known as, and may be cited as, the Dave Elder Public Employees' Retirement System Member Home Loan Program Act.

SEC. 4. Section 22754.16 is added to the Government Code, to read:

22754.16. Notwithstanding Section 22754, the term "annuitant" includes any person who receives the benefits provided by subdivision (e) of Section 75522 and the term "family member" includes a person who is the survivor of a judge and is eligible for benefits under the Judges' Retirement System II.

SEC. 5. Section 22816.31 is added to the Government Code, to read:

22816.31. Any judge who retires under the Judges' Retirement System II, pursuant to subdivision (e) of Section 75522, and who has not attained the age of 65 years shall be entitled to have his or her coverage and the coverage of any family members continued upon assuming payment of the contributions otherwise required of the employer on account of his or her enrollment. Any election to continue coverage under this section shall be made within 60 days of permanent separation. The judge shall also pay an additional 2 percent of the contribution payments required to be paid by the judge to cover the administrative costs incurred by the system in administering the program provided by this section. A retired judge who cancels that coverage may not reenroll. Upon attaining the age of 65 years a retired judge who has participated in this program and has continuous and uninterrupted coverage shall be entitled to the applicable employer contribution.

SEC. 6. Section 68504 of the Government Code is amended to read:

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

SEC. 7. Section 68543.5 of the Government Code is amended to read:

68543.5. (a) Whenever a judge retired as such under the Judges' Retirement Law or the Judges' Retirement System II is assigned to serve in a trial court, the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, without loss or interruption of retirement benefits, unless the judge waives compensation under this section. Whenever a retired judge of a justice court who is not under the Judges' Retirement Law or the Judges' Retirement System II is assigned to serve in a trial court the state shall pay the judge for each day of service in the court in the amount specified in Section 68543.7, or the compensation specified in Section 68541, whichever is greater. The compensation shall be paid by the Judicial Council out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

If a judge retired as such under the Judges' Retirement Law is assigned to serve in a trial court, the 8-percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which assigned shall be paid to the Judges' Retirement Fund.

During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel, and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the Board of Control which are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business.

Notwithstanding the above provisions pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

(b) Whenever a judge retired as such under the Judges' Retirement Law or the Judges' Retirement System II is assigned to sit in a court of appeal or the Supreme Court, he or she shall be compensated while so sitting at a rate equal to 92 percent of the full compensation of a judge of the court to which he or she is assigned unless the judge waives compensation under this section. A retired

judge of a justice court who is not under the Judges' Retirement Law or the Judges' Retirement System II and who is assigned to sit in a court of appeal or the Supreme Court shall be compensated while so sitting at the full compensation of a judge of the court to which he or she is assigned, or the compensation specified in Section 68541, whichever is greater. The compensation shall be chargeable for the period specified in Section 68547 the same as provided by law with respect to the compensation of a judge of the court to which he or she is assigned and the compensation is payable out of any appropriation for extra compensation of judges assigned by the Chairperson of the Judicial Council.

If the compensation is greater than the judge's retirement allowance, the state shall pay the judge the difference between the compensation and the retirement allowance. The state shall reimburse the Judges' Retirement Fund or the Judges' Retirement System II for the retirement allowance paid to the judge while sitting on assignment, except that if no allowance has been paid because the judge has taken deferred retirement, no reimbursement shall be paid to the Judges' Retirement System or the Judges' Retirement System II.

If the compensation would be less than his or her retirement allowance, the retirement allowance shall continue to be paid in lieu of the compensation. The state shall reimburse the Judges' Retirement Fund or the Judges' Retirement System II Fund in the amount of the compensation which would otherwise have been paid to the judge while sitting on assignment.

If a judge retired under the Judges' Retirement Law or the Judges' Retirement System II is assigned to sit in a court of appeal or the Supreme Court, the 8-percent difference between the compensation of the retired judge while so assigned and the compensation of a judge of the court to which assigned shall be paid to the Judges' Retirement Fund or the Judges' Retirement System II Fund.

During the period of assignment, a retired judge shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment. When assigned to sit in the county in which he or she resides, the judge shall be allowed expenses for travel, and board incurred in the discharge of the assignment. The expenses for travel, board, and lodging shall be paid by the state under the rules adopted by the State Board of Control which are applicable to officers of the state provided for in Article VI of the Constitution while traveling on official state business.

Notwithstanding the above provisions pertaining to compensation, a retired judge on senior judge status shall receive compensation from the state as provided in Sections 75028 and 75028.2, and shall be allowed expenses for travel, board, and lodging incurred in the discharge of the assignment as provided in this section.

SEC. 8. Section 68543.7 of the Government Code is amended to read:

68543.7. Subject to funding in the Budget Act, the Chief Justice

shall make available by assignment the equivalent of 50 additional full-time judges. A judge retired under the Judges' Retirement System or the Judges' Retirement System II sitting on assignment in a trial court shall be paid in the amount of 92 percent of 1/250th of the annual salary of a judge of the court to which he or she is assigned for each day of service in the court.

SEC. 9. Section 71180.5 of the Government Code is amended to read:

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

SEC. 10. Section 75110 of the Government Code is repealed.

SEC. 11. Chapter 11.5 (commencing with Section 75500) is added to Title 8 of the Government Code, to read:

CHAPTER 11.5. JUDGES' RETIREMENT SYSTEM II

Article 1. General Provisions

75500. (a) This chapter shall be known and may be cited as the Judges' Retirement System II Law.

(b) Chapter 11 (commencing with Section 75000) shall not apply to this chapter and shall not apply to judges, as defined in Section 75502.

75501. Unless the context otherwise requires, the definitions and general provisions set forth in this article govern the construction of this chapter.

75502. (a) "Judge" means a justice of the Supreme Court or of a court of appeal, or a judge of a superior court, municipal court, or justice court who is first elected or appointed to judicial office on or after November 9, 1994, and is not a member of the Judges' Retirement System pursuant to Chapter 11 (commencing with Section 75000). A retired judge does not acquire status as a judge for the purposes of this chapter by reason of designation as a temporary judge of, or assignment by the Chairperson of the Judicial Council to, any of these courts.

A former member of the Judges' Retirement System under Section 75002 who withdrew his or her contributions upon leaving office, and who takes judicial office on or after November 9, 1994, becomes a member of the system existing under Chapter 11 (commencing with Section 75000) and does not become a member of the Judges' Retirement System II. No person shall be a member of the Judges' Retirement System II who is or ever has been a member of the Judges' Retirement System pursuant to Chapter 11 (commencing with Section 75000).

(b) "System" means the Judges' Retirement System II established by this chapter.

(c) "Service" means the period of time a judge received a salary and made contributions to the system by reason of holding office as a judge of any one or more of the courts of this state specified in subdivision (a), computed in years and fractions of years.

(d) "Final compensation" means the average monthly salary of a judge during the 12 months immediately preceding his or her retirement from or otherwise leaving judicial office.

(e) "Benefit factor" means the percentage used in calculating a judge's monthly retirement allowance under Section 75522.

(f) "Contributions" means the accumulated deductions from the judge's salary under Sections 75601 and 75602. References to payment to a judge of his or her contributions or to the determination of a judge's and spouse's shares in the contributions include both the contributions and interest thereon at the rates determined by the Board of Administration of the Public Employees' Retirement System.

(g) "Salary" means the compensation received by a judge as the emolument of the office of judge, but does not include any additional compensation received by reason of designation as a temporary judge or assignment by the Chairperson of the Judicial Council.

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

(i) "Fund" or "retirement fund" means the Judges' Retirement System II Fund established pursuant to Section 75600.

75505. (a) This chapter shall be administered and governed pursuant to the Public Employees' Retirement Law to the same extent and with the same effect as if those provisions are contained in this chapter, except for those provisions that provide for the payment of an allowance or other benefit and except for those provisions that conflict with any provision of this chapter.

(b) All payments from the Judges' Retirement System II Fund shall be made upon warrants drawn by the Controller upon demands by the Board of Administration of the Public Employees' Retirement System.

75506. The board shall, annually, send each judge a member statement which shall include information regarding accrued service credit, accrued monetary credits, retirement eligibility dates, and other pertinent information.

75507. Any allowance payable to a retired judge or to a surviving spouse or to an eligible surviving child that has accrued and remained unpaid at the time of the death of the judge or the death of a surviving spouse or surviving child, or any unclaimed warrant issued prior to the date of death and returned to the board, shall be paid to one of the following:

(a) The survivor entitled to an allowance payable by the board.

(b) The beneficiary designated by the surviving spouse, eligible surviving child, or retired judge if there is no eligible survivor.

(c) The estate of the deceased, if there is no one entitled to payment under subdivision (a) or (b).

75508. The surviving spouse or eligible surviving child of a deceased judge who is receiving a monthly allowance from the system, or a retired judge, if there is no spouse or eligible child, may designate a beneficiary to receive the pro rata allowance remaining payable in the month of his or her death. The designation may be made, changed, or revoked at any time, and shall be in writing and filed with the system.

Article 2. Early Retirement and Normal Retirement

75520. (a) A judge shall, monthly, accrue monetary credits equal to 18 percent of the judge's monthly salary.

(b) To the total monetary credits in each judge's account, an additional amount shall be credited monthly at a rate equal to the annual net earnings rate achieved by the Judges' Retirement System II Fund on its investments of moneys in the Judges' Retirement System II Fund during the preceding fiscal year.

(c) Notwithstanding subdivisions (a) and (b), no monetary credit under subdivision (a) shall be accrued for service during a term of office that commences after the judge has attained 70 years of age.

75521. (a) A judge who leaves judicial office before accruing at least five years of service shall be paid the amount of his or her contributions to the system, and no other amount.

(b) A judge who leaves judicial office after accruing five or more years of service and who is not eligible to elect to retire under Section 75522 shall be paid the amount of his or her monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution, and no other amount.

(c) Judges who leave office as described in subdivision (b) are "retired judges" for purposes of assignment pursuant to Article 2 (commencing with Section 66540) of Chapter 2 of this division.

(d) After a judge has withdrawn his or her accumulated contributions or the amount of his or her monetary credits upon leaving judicial office, the service shall not count in the event he or she later becomes a judge again, until he or she pays into the Judges' Retirement System II Fund the amount withdrawn, plus interest thereon at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20654 from the date of withdrawal to the date of payment.

75522. (a) A judge is eligible to retire pursuant to this section upon attaining both 65 years of age and 20 or more years of service, or upon attaining 70 years of age with a minimum of five years of service.

(b) The office of a judge who retires under this section becomes vacant on the date of the retirement.

(c) A judge who retires pursuant to this section shall, within 30 days after the effective date of the retirement, elect to receive either the benefits provided by subdivision (d) or the benefits provided by

subdivision (e). Under rules adopted by the board, the time for the election may be extended in cases of illness or other hardship, but once made, the election shall be final and irrevocable.

(d) The judge may elect to receive for life a monthly retirement allowance equal to the benefit factor multiplied by the judge's final compensation multiplied by the number of years of service credit.

(1) The benefit factor for a judge eligible to retire pursuant to this section equals 3.75 percent per year of service.

(2) The retirement allowance of a judge who does not retire prior to the commencement of the term of office after the term during which he or she attains 70 years of age shall not exceed 50 percent of the judge's final compensation. This paragraph shall be made applicable only to the extent that it is not in violation of federal law.

(3) In no event shall the retirement allowance at the time of retirement exceed 75 percent of the judge's final compensation.

(e) The judge may elect to receive the amount of his or her monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution. Under rules adopted by the board, the judge may elect to receive that amount in a single payment, or may direct that it be paid in an annuity of actuarially equivalent value for the judge's life or in one of the optional forms provided for in Section 75571.

(f) If a retired judge fails or refuses to make an election pursuant to subdivision (c) within the time allowed, he or she shall be deemed to have elected to receive a monthly retirement allowance under subdivision (d).

75523. (a) The retirement allowance of retired judges who have elected to receive a monthly allowance under subdivision (d) of Section 75522 shall be adjusted effective in January of each year after a judge has been retired under this chapter for more than six months, to reflect any increase in the cost of living occurring after January 1 of the immediately preceding fiscal year. The United States city average of the "Consumer Price Index for all Urban Consumers," as published by the United States Bureau of Statistics, shall be used as the basis for determining changes in the cost of living.

(b) No adjustment shall be made unless the cost-of-living increase equals or exceeds 1 percent. The allowance shall not be increased more than 3 percent in a single year. Increases shall be compounded.

(c) The allowance shall not be decreased as a result of the cost-of-living adjustment.

(d) The board shall provide, by rule, any details needed for the implementation of this section.

75524. Any designation as a temporary judge or any assignment by the Chairperson of the Judicial Council shall be disregarded for purposes of this chapter. For the purposes of this chapter, no person shall acquire status as a judge, nor shall any person's status as a judge be affected, by that designation or assignment.

75525. Retired judges, and beneficiaries, who are entitled to

receive allowances under this chapter, may authorize deductions to be made from their retirement allowance payments, in accordance with regulations established by the board for payment of group life insurance premiums for a group life insurance plan approved by the Director of Finance.

75526. A judge who pleads guilty or no contest or is found guilty of a crime committed while holding judicial office that is punishable as a felony under California or federal law and which either involves moral turpitude under that law or was committed in the course and scope of performing the judge's duties, and the conviction becomes final shall not receive any benefits from the system, except that the amount of his or her contributions to the system shall be paid to him or her by the system.

75527. Notwithstanding any other provision of this chapter, the benefits payable to any person shall be subject to the limitations set forth in the Internal Revenue Code.

Article 3. Community Property

75550. In this article, unless the context indicates otherwise:

(a) "Member" means a judge as defined in Section 75502.

(b) "Nonmember" means the spouse or former spouse of a member, who as a result of petitioning the court for the division of community property has been awarded a distinct and separate account reflecting specific monetary credits, specific credited service, and accumulated contributions.

(c) "Court" means the court with jurisdiction over the marriage.

75551. (a) If a member's marriage is dissolved or a member and his or her spouse are legally separated while the member is an active judge, the court shall make the following determinations:

(1) The number of years of service that accrued during the marriage of the member and nonmember, down to the date of their separation.

(2) The date of the parties' separation.

(3) If the member had been a judge for fewer than five years on the date of separation, the court shall determine the member's and nonmember's shares of the judge's contributions to the fund, based on Section 2610 of the Family Code, and on the law generally applicable to property earned during marriage.

(4) If the member had been a judge for five years or more on the date of separation, the court shall determine the member's and nonmember's shares of the judge's monetary credits that have accrued pursuant to Section 75520, based on Section 2610 of the Family Code, and on the law generally applicable to property earned during marriage. The monetary credits include the credits computed pursuant to subdivision (b) of Section 75520 computed to the date the court finds appropriate.

(b) The determinations made pursuant to paragraphs (1) and (2) and pursuant to paragraph (3) or (4) of subdivision (a) shall be

included in the judgment of dissolution or separation. The system shall deem any portion of the judge's contributions or of the judge's monetary credits that were not allocated by the judgment to the nonmember, to be allocated to the member.

(c) Promptly after receiving a certified copy of a judgment dissolving the marriage of a member or legally separating a member and nonmember and allocating shares of the member's contributions pursuant to paragraph (3) of subdivision (a), the fund shall pay to the nonmember the amount allocated to him or her in the judgment. The nonmember shall have no further interest in the fund.

(d) Promptly after receiving a certified copy of a judgment dissolving the marriage of a member or legally separating a member and nonmember and allocating shares of the member's monetary credits pursuant to paragraph (4) of subdivision (a), the fund shall pay to the nonmember the amount allocated to him or her in the judgment. The nonmember shall have no further interest in the fund.

(e) The amount of the payment pursuant to subdivision (c) or (d) shall be subtracted from the member's monetary credits as computed pursuant to Section 75520. Until the amount is redeposited pursuant to Section 75552, the additional credits accorded pursuant to subdivision (b) of Section 75520 shall be computed on the amount so reduced.

75552. (a) After payment of a portion of the member's contributions to a nonmember pursuant to subdivision (b) of Section 75551, the member may redeposit the full amount in the fund at any time before he or she retires or otherwise leaves judicial office. The redeposit shall include interest at the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20654 from the date of payment to the date of redeposit. A partial redeposit shall not be accepted.

(b) After payment of a portion of the member's monetary credits to a nonmember pursuant to subdivision (c) of Section 75551, the member may redeposit the full amount in the fund at any time before he or she retires or otherwise leaves judicial office. The redeposit shall include interest at the greater of: (1) the rate of interest then being required to be paid by members of the Public Employees' Retirement System under Section 20654 from the date of payment to the date of redeposit; or (2) the compounded amounts that would have been credited to the member's monetary account pursuant to subdivision (b) of Section 75520 had the payment not been made to the nonmember. A partial redeposit shall not be accepted.

75553. (a) If a member leaves judicial office after a nonmember has received a share of the member's contributions or a share of the member's monetary credits pursuant to Section 75551, the member's retirement fund rights shall be determined pursuant to this section.

(b) If the member has redeposited the amount paid to the nonmember, with interest, pursuant to Section 75552, the payment

to the nonmember shall be ignored and the member's rights shall be determined as though the payment to the nonmember had not occurred; and subdivisions (c), (d), and (e) shall not apply.

(c) If the member leaves judicial office before accruing at least five years of service, he or she shall be paid the dollar amount of his or her contributions to the system minus the amount paid to the nonmember, and no other amount.

(d) If the member leaves office after accruing five or more years of service and either: (1) elects, pursuant to subdivision (e) of Section 75522, to receive the amount of his or her monetary credits; or (2) is entitled, pursuant to subdivision (b) or (c) of Section 75521 to receive only the amount of his or her monetary credits, the member shall be paid the amount of his or her monetary credits as provided in Section 75521 or subdivision (e) of Section 75522, reduced as provided in subdivision (d) of Section 75551.

(e) If the member is eligible for retirement pursuant to Section 75522 and elects, pursuant to subdivision (d) of Section 75522, to receive a monthly allowance, the judge's monthly allowance shall equal the monthly allowance that would have been payable pursuant to subdivision (d) of Section 75522 based on the judge's service and salary, multiplied by a fraction equal to:

$$\frac{\text{NMS}}{\text{S}} + \frac{50\% \text{ (MS)}}{\text{S}}$$

where:

"S"	=	the member's total service
"MS"	=	the member's service while married to the nonmember prior to their separation
"NMS"	=	the member's service while not married to the nonmember

(f) If, notwithstanding paragraph (1) of subdivision (a) of Section 75551, the judgment did not specify the number of years of service that accrued during the marriage or other necessary facts, the system may make its own determination in order to make the computation in subdivision (e).

Article 4. Disability Retirement

75560. No judge shall be eligible to be retired for disability unless the judge is credited with at least five years of judicial service or unless the disability is a result of injury or disease arising out of and in the course of judicial service.

75560.1. (a) Any judge who is unable to discharge efficiently the duties of his or her office by reason of mental or physical disability that is or is likely to become permanent may, with his or her consent

and with the approval of the Chief Justice or Acting Chief Justice and the Commission on Judicial Performance, be retired from office. The consent of the judge shall be made on a written application to the Commission on Judicial Performance, signed by the judge or a family member or legal representative acting on the judge's behalf. The retirement shall be effective upon approval by the designated officers, except as provided in subdivision (b). A certificate evidencing the approval shall be filed with the Secretary of State. Upon the filing of the certificate, a successor shall be appointed to fill the vacancy.

(b) Any judge who dies after executing an application evidencing his or her consent that has been received in the office of the commission and before the approval of both of the designated officers has been obtained shall be deemed to have retired on the date of his or her death if the designated officers, prior to the filling of the vacancy created by the judge's death, file with the Secretary of State their certificate of approval.

(c) No retirement under this section may be approved unless a written statement by a physician or psychiatrist that he or she has personally examined the judge applying for retirement under this section and that he or she is of the opinion that the judge is unable to discharge efficiently the duties of the judge's office by reason of a mental or physical disability that is or is likely to become permanent is presented to the persons having the responsibility to approve or disapprove the retirement.

75560.3. (a) The Commission on Judicial Performance shall annually submit to the Governor and the Legislature a report on the incidence of ordered, requested, and granted disability retirements in the preceding fiscal year.

(b) The report shall include the following:

(1) The number of years the affected judges have served as a judge on the date of receipt of the application for disability retirement and on the effective date of the disability retirement.

(2) The age of the judge on the date of receipt of the application for disability retirement and on the effective date of his or her disability retirement.

(3) The physical or mental impairment that was the basis for the application by the judge for disability retirement, for the granted disability retirement, or for the ordered disability retirement, using the following categories to describe the impairment:

(A) Orthopedic.

(B) Psychological.

(C) Cardiovascular.

(D) Internal.

(E) Neurological.

(F) Other.

(4) Any other information deemed relevant by the Commission on Judicial Performance.

75560.4. (a) A judge who retires for disability shall receive a

retirement allowance in an amount equal to the lower of the following:

(1) The benefit factor under subdivision (d) of Section 75522 multiplied by the judge's final compensation on the effective date of the disability retirement multiplied by the number of years of service the judge would have been credited if the judge's service had continued to the age the judge would have first been eligible to retire under subdivision (a) of Section 75522.

(2) Sixty-five percent of the judge's final compensation on the effective date of the disability retirement.

(b) Notwithstanding subdivision (a), the retirement allowance of a judge who retires for disability shall equal 65 percent of the judge's final compensation on the effective date of the disability retirement regardless of the judge's age or length of service, if the Commission on Judicial Performance determines that the disability is predominantly a result of injury arising out of and in the course of judicial service

75560.6. The Commission on Judicial Performance, in its discretion, but not more often than once every two years, may require any judge who is receiving an allowance under this article and who is under the age of 65 years to undergo medical examination. The examination shall be made by one or more physicians and surgeons, appointed by the Commission on Judicial Performance, at the place of residence of the judge or other place mutually agreed upon. Upon the basis of the examination the commission shall determine whether he or she is still incapacitated, physically or mentally, for service as a judge. If the commission determines, on the basis of the results of the medical examination, that he or she is not so incapacitated, he or she shall be a judicial officer of the state, but shall not exercise any of the powers of the justice or judge except while under assignment to a court by the Chairperson of the Judicial Council. The allowance of the judge shall cease if he or she refuses an assignment while he or she is not so incapacitated. Section 68543.5 is applicable to the judge.

75562. A judge who applies for disability retirement and against whom there is pending a criminal charge of the commission of, or who has been convicted of, a felony under California or federal law, allegedly committed or committed while holding judicial office, prior to the approval of the application:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75560.1 from each of at least two physicians or two psychiatrists.

75563. A judge against whom there is pending a disciplinary

proceeding that could lead to his or her removal from office or who has been removed from office for judicial misconduct, prior to the approval of his or her application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75560.1 from each of at least two physicians or two psychiatrists.

75564. A member who is defeated at an election and who either had submitted, prior to the date of the election, an application for disability retirement or submits, on or after the date of the election, an application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75560.1 from each of at least two physicians or two psychiatrists.

Article 5. Payment of Benefits

75570. (a) In lieu of the retirement allowance under subdivision (d) of Section 75522 for his or her life alone, a judge who elects to retire with a monthly allowance under subdivision (d) of Section 75522 may elect, or revoke or change a previous election prior to the approval of the previous election, to have the actuarial equivalent of his or her retirement allowance as of the date of retirement applied to a lesser retirement allowance, in accordance with one of the optional settlements specified in Section 75571.

(b) That election, revocation, or change of election shall be made by a writing filed with the system prior to the making of the first payment on account of any retirement allowance.

75571. (a) Optional settlement one consists of the right to have a retirement allowance paid him or her until his or her death and if he or she dies before he or she receives the amount of his or her accumulated contributions at retirement, to have the balance at death paid to his or her surviving spouse or estate.

(b) Optional settlement two consists of the right to have a retirement allowance paid him or her until his or her death and thereafter to his or her surviving spouse for life.

(c) Optional settlement three consists of the right to have a retirement allowance paid him or her until his or her death, and

thereafter to have one-half of his or her retirement allowance paid to his or her surviving spouse for life.

(d) Optional settlement four consists of such other benefits as are the actuarial equivalent of his or her retirement allowance, that he or she may select subject to the approval of the board.

Article 6. Employment of Retired Judges

75580. (a) If, after retirement for disability, a retired judge engages in the practice of law or other gainful occupation while less than 70 years of age, the retirement allowance otherwise payable to him or her shall cease permanently, except as provided in this section. If a retired judge becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement for disability, the retirement allowance otherwise payable shall, during the time he or she is entitled to receive that salary or other compensation, be reduced by the amount of that salary or compensation.

(b) A judge who is retired for disability and is less than 70 years of age may, without loss or reduction in allowance, engage in the practice of law or any other gainful occupation other than a public office as long as the compensation earned in any month when combined with the judge's allowance does not exceed 75 percent of the salary payable to the judge holding the judicial office to which the retired judge was last elected or appointed, and the retirement allowance otherwise payable to the judge shall be reduced by the amount of any earning in excess of that amount. The judge shall report the compensation earned during each month to the board by the eighth day of the following month.

(c) Persons affected by this section shall report all compensation earned in a form and manner required by the board under penalty of perjury. The board shall have the authority to require these persons to grant the board permission to request wage information for the purposes of verifying the reported compensation earned. The Employment Development Department shall report compensation in a form and manner required by the board in accordance with Section 1798.24 of the Civil Code. The board shall reimburse the Employment Development Department for the costs that the department incurs in searching for and providing that information.

(d) When a person affected by this section reaches 70 years of age, his or her retirement allowance shall be made equal to the amount it would be if not reduced pursuant to this section, and shall not again be modified for any cause.

(e) A judge who is retired for disability pursuant to this chapter or becomes entitled to any salary for assignment to a court by the Chairperson of the Judicial Council after retirement for disability pursuant to this chapter shall not be eligible to receive service credit in another public retirement system or pursuant to this chapter or to be reinstated to this system.

(f) The Legislature reserves the right to increase or reduce the benefits prescribed by this section as it may find appropriate.

75583. (a) Any judge retired pursuant to this chapter who is appointed by the Supreme Court or any court of appeal, or division thereof, to act as a master or referee in any proceeding pending before any such court or before the Commission on Judicial Performance, shall be paid while so acting, in addition to his or her retirement allowance (taken without reduction on account of any election pursuant to Article 6 (commencing with Section 75570)) the difference, if any, between the retirement allowance and the compensation of a judge of the court from which he or she retired.

(b) When appointed to act as referee in a county other than that in which he or she resides, he or she shall also be allowed his or her necessary expenses for travel, board, and lodging incurred in the discharge of that appointment.

(c) The extra compensation and expenses, if any, shall be chargeable to the state.

Article 7. Survivor and Insurance Benefits

75590. (a) A surviving spouse of a judge who was eligible to retire pursuant to subdivision (a) of Section 75522 shall, within 90 days after the judge's death, elect to receive either of the following:

(1) A monthly retirement allowance equal to one-half of the judge's benefit factor computed as stated in subdivision (d) of Section 75522 as of the date of death, multiplied by the judge's final compensation multiplied by the number of years of service credit. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(2) The judge's monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution.

(b) A surviving spouse of a retired judge who elected to receive a monthly allowance under subdivision (d) of Section 75522 shall receive a monthly allowance equal to 50 percent of the deceased judge's last monthly retirement allowance. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

75591. (a) A surviving spouse of a judge who dies before becoming eligible to retire pursuant to subdivision (a) of Section 75522 shall receive the greater of one of the following:

(1) The judge's monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution.

(2) Three times the judge's annual salary at the time of his or her death. The amount shall be paid in equal monthly installments for a period of 36 months.

(b) If there is no surviving spouse, the greater of the amounts

prescribed in subdivision (a) shall be paid to the surviving children of the judge; or if none, to the judge's designated beneficiary, or if none, to the judge's estate.

75592. Each judge shall receive the same group term life insurance benefits as is granted to other constitutional officers and state managerial employees. The Administrative Office of the Courts shall administer the insurance benefit.

Article 8. Fund

75600. There is in the State Treasury, subject to the control of the board, a trust fund known as the Judges' Retirement System II Fund. The fund shall receive all assets paid into it including, without limitation, judges' contributions made pursuant to Sections 75601 and 75602 and the state's contributions made pursuant to Section 75600.5. All retirement allowances payable by law to judges to whom this chapter is applicable shall be paid from that fund. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated without regard to fiscal years, for payments which shall be made upon warrants drawn by the Controller upon demands made by the board.

75600.5. (a) The Controller shall at the end of each month ascertain the aggregate amount of the annual salaries of all judges covered by the Judges' Retirement System II, and out of the General Fund he or she shall transfer monthly into the Judges' Retirement System II Fund a sum equal to 18.8 percent of one-twelfth of the aggregate amount of those salaries.

(b) As of June 30 of the first year this chapter is in effect, and annually thereafter, the board shall make an actuarial investigation into the fund's experience, the ages of member judges, and other facts necessary to determine the actuarial soundness of the fund. Based on its investigation, the board shall determine the state contribution necessary to maintain or restore the actuarial soundness of the fund, stated as a percentage of judges' salaries.

(c) The state's contribution as fixed under this chapter shall be adjusted thereafter from time to time in the annual Budget Act according to the following method. As part of the proposed budget submitted pursuant to Section 12 of Article IV of the California Constitution, the Governor shall include the contribution rate submitted by the board pursuant to subdivision (b). The Legislature shall adopt the contribution rate and authorize the appropriation in the Budget Act.

75601. Except as provided in Section 75605, the Controller shall at the end of each month deduct 8 percent from the monthly salary of each justice of the Supreme Court and of the courts of appeal and of the portion paid by the state of the monthly salary of each judge of the superior court and shall cause this amount to be paid into the Judges' Retirement System II Fund.

75602. Except as provided in Section 75605, the Controller or the

auditor of each county shall deduct 8 percent from the portion paid by a county, or the Controller and the auditor, if appropriate, of the monthly salary of each judge of the superior court, municipal court, and justice court and cause this amount to be paid into the Judges' Retirement System II Fund.

75603. The Legislature reserves the right to increase the rates of contribution prescribed by Sections 75601 and 75602 in the amounts as it may find appropriate.

75604. The Legislature reserves the right to reduce any benefits applicable to any person who becomes a judge who is subject to this chapter.

75605. (a) Notwithstanding any other provision of law, the state and the county may pick up, for the sole purpose of deferring income taxes thereon, as authorized by Section 414(h)(2) of the Internal Revenue Code (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the normal contributions required to be deducted under Sections 75601 and 75602, inclusive, and paid into the Judges' Retirement System II Fund. The payments shall be reported as employer-paid normal contributions and shall be credited to the judge's account.

(b) Nothing in this section shall be construed to limit the authority of the state or the county to periodically eliminate the pickup by the state of all of the normal contributions required to be paid by a judge, as authorized by this section.

(c) This section shall not affect the computation of a judge's retirement allowance pursuant to this chapter.

75606. (a) A judge who has filed a declaration of candidacy for election or reelection to any judicial office may not withdraw his or her contributions under Section 75520 until after the election. If a judge is elected or reelected to a judicial office, he or she may not withdraw the contributions until sure time as the judge has declined to accept the office or has ceased to hold the office to which he or she has been elected.

(b) A judge who has been appointed, commissioned, or nominated to any judicial office of this state may not withdraw his or her contributions under Section 75520 until the judge has declined to serve or terminated his or her service in the latter office.

75607. The board may invest the money contained in the Judges' Retirement System II Fund in the same manner and subject to the same restrictions as investments of the Public Employees' Retirement Fund.

75608. The Treasurer is the custodian of the Judges' Retirement System II Fund. At the end of each month the board shall ascertain the written notices of voluntary retirement and the written certificates of involuntary retirement that have been filed with the Judges' Retirement System II and cause warrants to be drawn upon the State Treasury in favor of each retired judge for the amount of the retirement allowance to which he or she is entitled.

75609. A retired judge or the surviving spouse of a judge, entitled

to receive an allowance pursuant to this chapter, may authorize deductions to be made from the allowance, in accordance with regulations established for the payment of group insurance premiums and other premiums provided for under Section 1157, as well as shares or obligations of any regularly chartered credit union.

75610. Notwithstanding any other provision of law, all expenses of administration of this article shall be paid by appropriation from the Judges' Retirement System II Fund.

75611. If the board determines that there has been an overpayment of contributions or that any amount not required to be paid under this chapter has been paid by a judge, the board shall refund the amount of the overpayment or excess payment to the judge. So much money as may be necessary is hereby appropriated from the Judges' Retirement System II Fund to the board for the purpose of making refunds pursuant to this section.

75612. (a) The board may assess a county a reasonable amount to cover costs incurred because of the county's failure to submit reports within 30 days of the date the reports are due. The payments of the assessments shall be credited to the Judges' Retirement System II Fund.

(b) The board may charge interest on the amount of any payment due and unpaid by a county until payment is received. Interest shall be charged at a rate approximating the average rate received on moneys then being invested. The interest charged shall be deemed interest earnings in the year in which received.

75613. (a) Whenever a person entitled to payment of a member's contributions or any other benefit fails to claim the payment or cannot be located or a warrant in payment is canceled pursuant to Section 17070, the amount owed from the Judges' Retirement System II Fund shall be administered pursuant to subdivision (c).

(b) Whenever the amount of a benefit payable by this program cannot be determined because the recipient cannot be identified or information necessary to determination of the benefit to be paid cannot be ascertained, the contributions of the member on whose account the benefit is payable shall be administered pursuant to subdivision (c).

(c) Notwithstanding any provision of law to the contrary, the amounts described in subdivisions (a) and (b) shall be held, or if a warrant has been drawn the warrant shall be redeposited in the fund and held for the claimant without accumulation of interest, and the redeposit shall not operate to reinstate the membership of the person with respect to whose membership the refund or benefit was payable in this system. If the proceeds, whether heretofore or hereafter redeposited, are not claimed within four years after the date of the redeposit, they shall revert to and become a part of the fund. Transfer to the fund shall be made as of the June 30 next following the expiration of the four-year period.

(d) The board may at any time after transfer of proceeds to the

fund upon receipt of proper information satisfactory to it, return the proceeds to the credit of the claimant, to be administered in the manner provided under this system.

SEC. 14. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 15. No provision of this act, unless there is a court decision to the contrary, shall be construed to affect the constitutional authority of the Legislature respecting appropriations from the General Fund.

SEC. 16. This act shall become operative on November 9, 1994.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to decrease the growth of the unfunded liability of the Judges' Retirement System and for the second tier benefits structure contained in the Judges' Retirement System II to be implemented in a timely manner, this act must take effect immediately.

CHAPTER 880

An act to amend Section 1547 of the Penal Code, relating to rewards, and making an appropriation therefor.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1547 of the Penal Code is amended to read:

1547. (a) The Governor may offer a reward of not more than fifty thousand dollars ($50,000), payable out of the General Fund, for information leading to the arrest and conviction of any of the following:

(1) Any convict who has escaped from a state prison, prison camp, prison farm, or the custody of any prison officer or employee or as provided in Section 3059 or 4530.

(2) Any person who has committed, or is charged with the commission of, an offense punishable by death.

(3) Any person engaged in the robbery or hijacking of, or any attempt to rob or hijack, any person upon or in charge of, in whole or in part, any public conveyance engaged at the time in carrying passengers within this state.

(4) Any person who kills, attempts to murder either in the first or second degree, assaults with a deadly weapon, or inflicts serious

bodily harm upon a peace officer or firefighter who is acting in the line of duty.

(5) Any person who has committed a crime involving the burning or bombing of public or private property, including any public hospital housed in a privately owned facility.

(6) Any person who has committed a crime involving the burning or bombing of any private hospital. A reward may be offered by the Governor in conjunction with such a crime only if a reward in conjunction with the same crime is offered by the hospital, or any other public or private donor on its behalf. The amount of the reward offered by the Governor shall not exceed the aggregate amount offered privately, or fifty thousand dollars ($50,000), whichever is less. Nothing in this paragraph shall preclude a private hospital, or any public or private donor on its behalf, from offering a reward in an amount exceeding fifty thousand dollars ($50,000). If a person providing information for a reward under this paragraph so requests, his or her name and address shall remain confidential. This confidentiality, however, shall not preclude or obstruct the investigations of law enforcement authorities.

(7) Any person who commits a violation of Section 11413.

(8) Any person who commits a violation of Section 207.

(9) Any person who has committed a crime involving the burning or bombing of any bookstore or public or private library not subject to Section 11413. A reward may be offered by the Governor in conjunction with such a crime only if a reward in conjunction with the same crime is offered by the bookstore or library, or any other public or private donor on its behalf. The amount of the reward offered by the Governor shall not exceed the aggregate amount offered privately, or fifty thousand dollars ($50,000), whichever is less. Nothing in this paragraph shall preclude a bookstore or public or private library, or any public or private donor on its behalf, from offering a reward in an amount exceeding fifty thousand dollars ($50,000). If a person providing information for a reward under this paragraph so requests, his or her name and address shall remain confidential. This confidentiality, however, shall not preclude or obstruct the investigations of law enforcement authorities.

(10) Any person who commits a violation of Section 454 or 463.

(11) Any person who willfully and maliciously sets fire to, or who attempts to willfully and maliciously set fire to, any property that is included within a hazardous fire area designated by the State Board of Forestry pursuant to Section 4252 of the Public Resources Code or by the Director of Forestry and Fire Protection pursuant to Section 4253 of the Public Resources Code, if the fire, or attempt to set a fire, results in death or great bodily injury to anyone, including fire protection personnel, or if the fire causes substantial structural damage.

(b) The reward shall be paid to the person giving the information, immediately upon the conviction of the person so arrested.

(c) As used in this section, "hijacking" means an unauthorized

person causing, or attempting to cause, by violence or threat of violence, a public conveyance to go to an unauthorized destination.

SEC. 2. Section 1547 of the Penal Code is amended to read:

1547. (a) The Governor may offer a reward of not more than fifty thousand dollars ($50,000), payable out of the General Fund, for information leading to the arrest and conviction of any of the following:

(1) Any convict who has escaped from a state prison, prison camp, prison farm, or the custody of any prison officer or employee or as provided in Section 3059 or 4530.

(2) Any person who has committed, or is charged with the commission of, an offense punishable by death.

(3) Any person engaged in the robbery or hijacking of, or any attempt to rob or hijack, any person upon or in charge of, in whole or in part, any public conveyance engaged at the time in carrying passengers within this state.

(4) Any person who attempts to murder either in the first or second degree, assaults with a deadly weapon, or inflicts serious bodily harm upon a peace officer or firefighter who is acting in the line of duty.

(5) Any person who has committed a crime involving the burning or bombing of public or private property, including any public hospital housed in a privately owned facility.

(6) Any person who has committed a crime involving the burning or bombing of any private hospital. A reward may be offered by the Governor in conjunction with such a crime only if a reward in conjunction with the same crime is offered by the hospital, or any other public or private donor on its behalf. The amount of the reward offered by the Governor shall not exceed the aggregate amount offered privately, or fifty thousand dollars ($50,000), whichever is less. Nothing in this paragraph shall preclude a private hospital, or any public or private donor on its behalf, from offering a reward in an amount exceeding fifty thousand dollars ($50,000). If a person providing information for a reward under this paragraph so requests, his or her name and address shall remain confidential. This confidentiality, however, shall not preclude or obstruct the investigations of law enforcement authorities.

(7) Any person who commits a violation of Section 11413.

(8) Any person who commits a violation of Section 207.

(9) Any person who has committed a crime involving the burning or bombing of any bookstore or public or private library not subject to Section 11413. A reward may be offered by the Governor in conjunction with such a crime only if a reward in conjunction with the same crime is offered by the bookstore or library, or any other public or private donor on its behalf. The amount of the reward offered by the Governor shall not exceed the aggregate amount offered privately, or fifty thousand dollars ($50,000), whichever is less. Nothing in this paragraph shall preclude a bookstore or public or private library, or any public or private donor on its behalf, from

offering a reward in an amount exceeding fifty thousand dollars ($50,000). If a person providing information for a reward under this paragraph so requests, his or her name and address shall remain confidential. This confidentiality, however, shall not preclude or obstruct the investigations of law enforcement authorities.

(10) Any person who commits a violation of Section 454 or 463.

(11) Any person who willfully and maliciously sets fire to, or who attempts to willfully and maliciously set fire to, any property that is included within a hazardous fire area designated by the State Board of Forestry pursuant to Section 4252 of the Public Resources Code or by the Director of Forestry and Fire Protection pursuant to Section 4253 of the Public Resources Code, if the fire, or attempt to set a fire, results in death or great bodily injury to anyone, including fire protection personnel, or if the fire causes substantial structural damage.

(b) The Governor may offer a reward of not more than one hundred thousand dollars ($100,000) for information leading to the arrest and conviction of any person who kills a peace officer or firefighter who is acting in the line of duty.

(c) The reward shall be paid to the person giving the information, immediately upon the conviction of the person so arrested.

(d) As used in this section, "hijacking" means an unauthorized person causing, or attempting to cause, by violence or threat of violence, a public conveyance to go to an unauthorized destination.

SEC. 3. Section 2 of this bill incorporates amendments to Section 1547 of the Penal Code proposed by both this bill and SB 43 (1st Ex. Sess.). It shall only become operative if (1) both bills are enacted and become effective, (2) each bill amends Section 1547 of the Penal Code, and (3) this bill is enacted after SB 43 (1st Ex. Sess.). In that case, one of the following alternatives shall apply:

(A) If this bill becomes operative before SB 43 (1st Ex. Sess.), Section 1 of this bill shall be operative until the operative date of SB 43 (1st Ex. Sess.), at which time Section 2 of this bill shall become operative and Section 1 of this bill shall become inoperative.

(B) If this bill becomes operative after SB 43 (1st Ex. Sess.), Section 1547 of the Penal Code, as amended by SB 43 (1st Ex. Sess.), shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

CHAPTER 881

An act to amend Section 19581 of, and to add Section 19583 to the Business and Professions Code, relating to horseracing.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 19531 of the Business and Professions Code is amended to read:

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

(a) For thoroughbred racing: 44 weeks per year in the northern zone; 42 weeks per year in the central zone; and seven weeks per year in the southern zone.

(b) For harness racing: 25 weeks per year in the northern zone.

(c) For quarter horse racing: 25 weeks per year in the northern zone.

(d) For harness racing and quarter horse racing: a total of 77 weeks per year in the combined central and southern zones.

(e) In its written application for a license, an applicant shall state the time of day, consistent with Section 19571, during which it will conduct its racing meeting, and particularly the first race starting time for the various racing days. After receiving a license, a licensee shall not change the first race starting time without securing prior approval of the board.

(f) Notwithstanding this section or any other provision in this chapter, the board shall not allocate dates to a thoroughbred association in the central zone for the purpose of conducting racing during daytime hours if a thoroughbred racing association is conducting racing in the southern zone on the same date during daytime hours.

SEC. 2. Section 19583 is added to the Business and Professions Code, to read:

19583. Every veterinarian who treats a horse within the inclosure shall, in writing, on a form prescribed by the board, report to the official veterinarian in a manner prescribed by him or her, the name of the horse treated, the name of the trainer of the horse, the time of treatment, any medication administered to the horse, and any other information requested by the official veterinarian.

CHAPTER 882

An act to amend Sections 1203.4 and 1203.45 of the Penal Code, and to amend Sections 903 and 903.3 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1203.4 of the Penal Code is amended to read:

1203.4. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing; however, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person or prevent his or her conviction under Section 12021.

This subdivision shall apply to all applications for relief under this

section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any misdemeanor which is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

(c) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the county for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred twenty dollars ($120), and to reimburse any city for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred twenty dollars ($120). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(d) No relief shall be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed, pursuant to this section.

It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(e) If, after receiving notice pursuant to subdivision (d), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

SEC. 1.5. Section 1203.4 of the Penal Code is amended to read:

1203.4. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he or she is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his or her plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant, and except as noted below, he or she shall thereafter be released from all penalties and disabilities resulting from the offense of which he or she has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his or her probation papers, of this

right and privilege and his or her right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make the application and change of plea in person or by attorney, or by the probation officer authorized in writing; however, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed. The order shall state, and the probationer shall be informed, that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his or her custody or control any firearm capable of being concealed upon the person or prevent his or her conviction under Section 12021.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) does not apply to any misdemeanor which is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

(c) A person who petitions for a change of plea or setting aside of a verdict under this section may be required to reimburse the county for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred twenty dollars ($120), and to reimburse any city for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred twenty dollars ($120). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

(d) No relief shall be granted under this section unless the prosecuting attorney has been given 15 days' notice of the petition for relief. The probation officer shall notify the prosecuting attorney when a petition is filed pursuant to this section.

It shall be presumed that the prosecuting attorney has received notice if proof of service is filed with the court.

(e) If, after receiving notice pursuant to subdivision (d), the prosecuting attorney fails to appear and object to a petition for dismissal, the prosecuting attorney may not move to set aside or otherwise appeal the grant of that petition.

SEC. 2. Section 1203.45 of the Penal Code is amended to read:

1203.45. (a) In any case in which a person was under the age of 18 years at the time of commission of a misdemeanor and is eligible for, or has previously received, the relief provided by Section 1203.4 or 1203.4a, that person, in a proceeding under Section 1203.4 or 1203.4a, or a separate proceeding, may petition the court for an order sealing the record of conviction and other official records in the case, including records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed. If the court finds that the person was under the age of 18 at the time of the commission of the misdemeanor, and is eligible for relief under Section 1203.4 or 1203.4a or has previously received such relief, it may issue its order granting the relief prayed for. Thereafter the conviction, arrest, or other proceeding shall be deemed not to have occurred, and the petitioner may answer accordingly any question relating to their occurrence.

(b) This section applies to convictions which occurred before, as well as those which occur after, the effective date of this section.

(c) This section shall not apply to offenses for which registration is required under Section 290, to violations of Division 10 (commencing with Section 11000) of the Health and Safety Code, or to misdemeanor violations of the Vehicle Code relating to operation of a vehicle or of any local ordinance relating to operation, standing, stopping, or parking of a motor vehicle.

(d) This section does not apply to a person convicted of more than one offense, whether the second or additional convictions occurred in the same action in which the conviction as to which relief is sought occurred or in another action, except in the following cases:

(1) One of the offenses includes the other or others.

(2) The other conviction or convictions were for the following:

(A) Misdemeanor violations of Chapters 1 (commencing with Section 21000) to 9 (commencing with Section 22500), inclusive, Chapter 12 (commencing with Section 23100) or Chapter 13 (commencing with Section 23250), inclusive, of Division 11 of the Vehicle Code, other than Section 23103, 23104, 23152, 23153, or 23220.

(B) Violation of any local ordinance relating to the operation, stopping, standing, or parking of a motor vehicle.

(3) The other conviction or convictions consisted of any combination of paragraphs (1) and (2).

(e) This section shall apply in any case in which a person was under the age of 21 at the time of the commission of an offense as to which this section is made applicable if that offense was committed prior to March 7, 1973.

(f) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the

action or proceeding becoming final, the court shall order the records sealed.

(g) A person who petitions for an order sealing a record under this section may be required to reimburse the county for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred twenty dollars ($120), and to reimburse any city for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the city council not to exceed one hundred twenty dollars ($120). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

SEC. 3. Section 903 of the Welfare and Institutions Code is amended to read:

903. (a) The father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor, shall be liable for the reasonable costs of support of the minor while the minor is placed, or detained in, or committed to, any institution or other place pursuant to Section 625 or pursuant to an order of the juvenile court. However, a county shall not levy charges for the costs of support of a minor detained pursuant to Section 625 unless, at the detention hearing, the juvenile court determines that detention of the minor should be continued, the petition for the offense for which the minor is detained is subsequently sustained, or the minor agrees to a program of supervision pursuant to Section 654. The liability of these persons and estates shall be a joint and several liability.

(b) The county shall limit the charges it seeks to impose to the reasonable costs of support of the minor and shall exclude any costs of incarceration, treatment, or supervision for the protection of society and the minor and the rehabilitation of the minor. In the event that court-ordered child support paid to the county pursuant to subdivision (a) exceeds the amount of the costs authorized by this subdivision and subdivision (a), the county shall either hold the excess in trust for the minor's future needs pursuant to Section 302.52 of Title 45 of the Code of Federal Regulations or, with the approval of the minor's caseworker or the probation officer, pay the excess directly to the minor.

(c) It is the intent of the Legislature in enacting this subdivision to protect the fiscal integrity of the county, to protect persons against whom the county seeks to impose liability from excessive charges, to ensure reasonable uniformity throughout the state in the level of liability being imposed, and to ensure that liability is imposed only

on persons with the ability to pay. In evaluating a family's financial ability to pay under this section, the county shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income. Except as provided in paragraphs (1), (2), (3), and (4), "costs of support" as used in this section means only actual costs incurred by the county for food and food preparation, clothing, personal supplies, and medical expenses, not to exceed a combined maximum cost of fifteen dollars ($15) per day, except that:

(1) The maximum cost of fifteen dollars ($15) per day shall be adjusted every third year beginning January 1, 1988, to reflect the percentage change in the calendar year annual average of the California Consumer Price Index, All Urban Consumers, published by the Department of Industrial Relations, for the three-year period.

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

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

(4) For those placements of a minor subject to this section in which an AFDC–FC grant is made, the district attorney shall seek an order pursuant to Section 11350 and the statewide child support guidelines in effect in Chapter 2 (commencing with Section 4720) of Title 5 of Part 5 of Division 4 of the Civil Code or Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 of the Family Code. For purposes of determining the correct amount of support of a minor subject to this section, the rebuttable presumption set forth in subdivision (d) of Section 4721 of the Civil Code or Section 4057 of the Family Code shall be applicable.

SEC. 3.5. Section 903 of the Welfare and Institutions Code is amended to read:

903. (a) The father, mother, spouse, or other person liable for the support of a minor, the estate of that person, and the estate of the minor, shall be liable for the reasonable costs of support of the minor while the minor is placed, or detained in, or committed to, any institution or other place pursuant to Section 625 or pursuant to an order of the juvenile court. However, a county shall not levy charges for the costs of support of a minor detained pursuant to Section 625 unless, at the detention hearing, the juvenile court determines that detention of the minor should be continued, the petition for the offense for which the minor is detained is subsequently sustained, or

the minor agrees to a program of supervision pursuant to Section 654. The liability of these persons and estates shall be a joint and several liability.

(b) The county shall limit the charges it seeks to impose to the reasonable costs of support of the minor and shall exclude any costs of incarceration, treatment, or supervision for the protection of society and the minor and the rehabilitation of the minor. In the event that court-ordered child support paid to the county pursuant to subdivision (a) exceeds the amount of the costs authorized by this subdivision and subdivision (a), the county shall either hold the excess in trust for the minor's future needs pursuant to Section 302.52 of Title 45 of the Code of Federal Regulations or, with the approval of the minor's caseworker or the probation officer, pay the excess directly to the minor.

(c) It is the intent of the Legislature in enacting this subdivision to protect the fiscal integrity of the county, to protect persons against whom the county seeks to impose liability from excessive charges, to ensure reasonable uniformity throughout the state in the level of liability being imposed, and to ensure that liability is imposed only on persons with the ability to pay. In evaluating a family's financial ability to pay under this section, the county shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income. Except as provided in paragraphs (1), (2), (3), and (4), "costs of support" as used in this section means only actual costs incurred by the county for food and food preparation, clothing, personal supplies, and medical expenses, not to exceed a combined maximum cost of fifteen dollars ($15) per day, except that:

(1) The maximum cost of fifteen dollars ($15) per day shall be adjusted every third year beginning January 1, 1988, to reflect the percentage change in the calendar year annual average of the California Consumer Price Index, All Urban Consumers, published by the Department of Industrial Relations, for the three-year period.

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

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

(4) For those placements of a minor subject to this section in which an AFDC–FC grant is made, the district attorney shall seek an order pursuant to Section 11350 and the statewide child support

guideline in effect in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 of the Family Code. For purposes of determining the correct amount of support of a minor subject to this section, the rebuttable presumption set forth in Section 4057 of the Family Code is applicable.

SEC. 4. Section 903.3 of the Welfare and Institutions Code is amended to read:

903.3. (a) The father, mother, spouse, or other person liable for the support of a minor person, the person himself or herself if he or she is an adult, or the estates of those persons shall, unless indigent, be liable for the cost to the county for any investigation related to the sealing and for the sealing of any juvenile court or arrest records pursuant to Section 781 pertaining to that person. The liability of those persons and estates shall be a joint and several liability.

(b) In the event a petition is filed for an order sealing a record, the father, mother, spouse, or other person liable for the support of a minor, that person if he or she is an adult, or the estate of that person, may be required to reimburse the county for the actual cost of services rendered, whether or not the petition is granted and the records are sealed or expunged, at a rate to be determined by the county board of supervisors not to exceed one hundred twenty dollars ($120). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (g) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services.

SEC. 5. Any state or local agency so qualified under federal law is authorized and encouraged to apply for federal funds available under the Violent Crime Control and Law Enforcement Act of 1994, and, with respect to direction of those funds, should provide for maximum flexibility and local discretion in implementing programs which meet the criteria and standards set forth in the act.

SEC. 6. Section 1.5 of this bill incorporates amendments to Section 1203.4 of the Penal Code proposed by both this bill and AB 3456. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) each bill amends Section 1203.4 of the Penal Code, and (3) this bill is enacted after AB 3456, in which case Section 1 of this bill shall not become operative.

SEC. 7. Section 3.5 of this bill incorporates amendments to Section 903 of the Welfare and Institutions Code proposed by both this bill and AB 2208. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) each bill amends Section 903 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2208, in which case Section 3 of this bill shall not become operative.

CHAPTER 883

An act to amend Section 52020 of the Health and Safety Code, relating to housing.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 52020 of the Health and Safety Code is amended to read:

52020. (a) For purposes of a home financing program authorized by this part, a city or county has the following powers and duties:

(1) To acquire, contract, and enter into advance commitments to acquire, home mortgages made or owned by lending institutions at the purchase prices and upon the other terms and conditions as shall be determined by the city or county or other person as it may designate as its agent, to make and execute contracts with lending institutions for the origination and servicing of home mortgages and to pay the reasonable value of services rendered under those contracts. Prior to executing any contract with a lending institution, a city or county shall adopt regulations establishing criteria for qualification of lending institutions eligible to originate and service home mortgages under home financing programs authorized by this part and shall, with respect to each home financing program, permit each qualified lending institution which transacts business in the city or county the opportunity to participate in the program on an equitable basis with other participating lending institutions. Two or more cities in the same county, or a county and one or more cities within the county, or two or more adjacent counties and any number of cities within those counties may enter into an agreement to join or cooperate with one another in the exercise jointly, or otherwise, of any or all of their powers for the purpose of financing home mortgages pursuant to this part with respect to property within the boundaries of any one or more of the entities.

(2) To make loans to lending institutions under terms and conditions which, in addition to other provisions as determined by the city or county, require the lending institutions to use all of the net proceeds thereof, directly or indirectly, for the making of home mortgages in an aggregate principal amount equal to the amount of the net proceeds.

(3) To establish, by rules or regulations, in resolutions relating to any issuance of bonds or in any documents relating to the issuance, standards and requirements applicable to the purchase of home mortgages or the making of loans to lending institutions as the city or county deems necessary or desirable to effectuate the purposes of this part, which may include without limitation any of the following:

(A) The time within which lending institutions are required to

make commitments and disbursements for home mortgages.

(B) The location and other characteristics of homes to be financed by home mortgages.

(C) The terms and conditions of home mortgages to be acquired.

(D) The amounts and types of any insurance coverage required on homes, home mortgages and bonds.

(E) The representations and warranties of lending institutions confirming compliance with the standards and requirements.

(F) Restrictions as to interest rate and other terms of home mortgages or the return realized therefrom by lending institutions.

(G) The type and amount of collateral security to be provided to assure repayment of any loans from the city or county and to assure repayment of bonds.

(H) Any other matters related to the purchase of home mortgages or the making of loans to lending institutions as deemed relevant by the city or county.

(4) To require from each lending institution from which home mortgages are purchased or to which loans are made the submission of evidence satisfactory to the city or county of the ability and intention of the lending institution to make home mortgages, and the submission, within the time specified by the city or county for making disbursements for home mortgages, of evidence satisfactory to the city or county of the making of home mortgages and of compliance with any standards and requirements established by it.

(b) Each city or county which finances housing pursuant to this part shall designate a person or entity to administer the program.

(c) Each city or county which finances housing pursuant to this part shall adopt regulations establishing criteria for qualification of persons and families, which may differ among different cities or counties to reflect varying economic and housing conditions. In developing this criteria, factors similar to the following shall be taken into consideration:

(1) The amount of the income of the person or family that is available for housing needs.

(2) The size of the household.

(3) The costs and condition of available housing.

(4) The eligibility of the persons or families for federal housing assistance of any type.

(d) Criteria for qualification of persons and families pursuant to this section shall include a maximum household income, which maximum shall not exceed the following:

(1) One hundred twenty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families shall also be 120 percent of the median household income.

(2) One hundred twenty percent of the median household income for mortgages where the purchaser will not be the first

occupant. However, the city or county shall ensure that no less than 50 percent of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 80 percent of that median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 90 percent of median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 80 percent of median household income. The resolution is final and conclusive as to the findings required by this paragraph.

(3) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and which is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

As used in this subdivision, "median household income" means the highest of (A) statewide median household income, (B) countywide median household income, or (C) median family income for area as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(e) Subdivision (d) shall not apply with respect to home finance programs funded with amounts made available by the issuance of revenue bonds that (1) for federal tax law purposes are bonds refunding qualified mortgage bonds issued before January 1, 1987, and (2) satisfy the requirements of subdivision (a) of Section 1313 of the federal Tax Reform Act of 1986. With respect to these programs, the maximum household income for qualification of persons and families pursuant to this section shall be the following:

(1) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under this paragraph, the maximum income of persons and families shall also be 150 percent of the median household income. For purposes of this paragraph, a mortgage made for improving a home includes a home

improvement loan as defined in Section 143 of Title 26 of the United States Code.

(2) One hundred twenty percent of the median household income where the purchaser will not be the first occupant. However, the city or county shall ensure that no less than 20 percent of the funds allocated for home mortgages where the purchaser will not be the first occupant shall be for households whose income does not exceed 110 percent of that median household income. However, the legislative body of the city or county may, by resolution, increase this income limitation to 120 percent of the median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 110 percent of the median household income. The resolution is final and conclusive as to the findings required by this paragraph. However, the finding shall not be made by the legislative body before six months from the date mortgages were first made under the program and only if participating lenders have entered into an agreement with the city, county, or city and county that lenders will advertise at least monthly the availability of funds and will forfeit one-quarter of their origination fees if they are unable to use 20 percent of the funds to make mortgages to households whose income does not exceed 110 percent of the median income.

(3) One hundred fifty percent of the median household income for mortgages made for improving a home or for homes where the purchaser will be the first occupant in any city, the entire area of which, or in any county in which a portion of the county, is designated by the United States Department of Commerce, Economic Development Administration as a special impact area within a Title IV redevelopment area, pursuant to Section 401 of the federal Public Works and Economic Development Act of 1965, as amended, and which is eligible for Urban Development Action Grant funds under the current distress standards established for cities and counties by the Secretary of the United States Department of Housing and Urban Development pursuant to Section 119 of the Housing and Community Development Act of 1974, if the homes purchased or improved are situated within the boundaries of a special impact area as defined by the Economic Development Administration, and that designation is in effect on the date of sale of revenue bonds issued under this part.

As used in this subdivision, "median household income" means the highest of (1) statewide median household income, (2) countywide median household income, or (3) median family income for area as determined by the United States Department of Housing and Urban Development, with respect to either a standard metropolitan statistical area or an area outside of a standard metropolitan statistical area.

(f) Each city or county which finances housing pursuant to this part shall require each mortgagor under the program to certify his or her intention to occupy the home for a minimum of two years after

receiving a home mortgage, with appropriate exceptions in hardship cases determined by the city or county.

(g) Each city and county may do any and all things necessary to carry out the purposes and exercise the powers expressly granted by this part.

CHAPTER 884

An act to amend Sections 50825, 50827, 50832, 50833, and 50834 of, and to add Section 50832.1 to, the Health and Safety Code, relating to economic development, and making an appropriation therefor.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 50825 of the Health and Safety Code is amended to read:

50825. It is the intent of the Legislature in enacting this chapter to ensure that funds allocated to the state pursuant to the federal Small Cities Community Development Block Grant Program (42 U.S.C. 5306(d)), and administered by the department, be of maximum benefit in meeting the housing and economic development needs of persons and families of low or moderate income. The Legislature intends that these funds be provided to eligible cities and counties that encourage new housing developments and economic development and which need the funds to support those developments. It is the intent of the Legislature to reaffirm established state policy that each eligible city or county contribute to meeting the statewide housing goals, or contribute to meeting the state's urgent need to halt the flow of jobs out of California by working to retain and expand existing businesses and attract new businesses that provide jobs to low- and moderate-income persons and families, or do both, and that funds allocated pursuant to this chapter be distributed accordingly.

SEC. 2. Section 50827 of the Health and Safety Code is amended to read:

50827. Thirty percent of the annual allocation of federal Small Cities Community Development Block Grant funds shall be set aside for economic development projects and programs specified in Sections 50832, 50832.1, 50833, and 50834. All funds made available pursuant to the program shall, consistent with the requirements of subsection (c) of Section 5301 of Title 42 of the United States Code, be utilized to provide decent housing, a suitable living environment, and expanding economic opportunities, principally for persons and families of low or moderate income.

SEC. 3. Section 50832 of the Health and Safety Code is amended

to read:

50832. (a) In order to ensure that a city or county may apply for both economic development and general program grants pursuant to this chapter in the same year, each applicant shall have a maximum grant request limitation of eight hundred thousand dollars ($800,000) per year, excluding general allocation planning and technical assistance grants and economic development allocation planning and technical assistance grants made available under Section 50833, of which a maximum of five hundred thousand dollars ($500,000) per year may be used for either housing or economic development applications. These limitations may be waived for the economic development allocation based upon available economic development funds after September 1 of each year. The department shall aggressively inform eligible cities and counties of the eligibility criteria and requirements under this section and in Section 50833.

(b) Except for applications specified in Section 50832.1, applications for all activities or set-asides under this section and Section 50833 shall be evaluated on a first-in, first-served basis.

(c) For all economic development applications under this section or Section 50833, including economic development assistance grants, the department shall develop project standards and rating factors which meet the minimum requirements of federal statutes, including a jobs-for-dollars test of thirty-five thousand dollars ($35,000) per job created or retained. In addition to the low- and moderate-income persons or families criteria established in subdivision (b) of Section 50826 and Sections 50827 and 50828, the department shall also utilize as criteria for the economic development allocation the federal standards of "blight" and "urgent need" under this section, Section 50832.1, and Section 50833.

SEC. 4. Section 50832.1 is added to the Health and Safety Code, to read:

50832.1. (a) The department is authorized to utilize specified amounts of the economic development set aside for a reservation of funds program to establish or enhance local revolving loan fund programs.

(b) To the extent that the department determines that some local communities lack capacity to apply for and administer projects under this section and Section 50832, the department may utilize federal training dollars to provide training services to those communities. In providing training, the department may contract with training entities, provide the training directly, or make stipends available for that training.

(c) Utilizing only existing Community Development Block Grant administrative funds, the department shall make every effort to assist communities unable to demonstrate compliance with federal regulations to come into compliance, which may include providing communities training in revolving loan fund administration through outside contractors.

SEC. 5. Section 50833 of the Health and Safety Code is amended

to read:

50833. (a) Ten percent of the total amount of the Small Cities Block Grant Program funds set aside for economic development shall be allocated to make economic development planning and technical assistance grants to eligible small cities or counties for business attraction, retention, and expansion programs for the development of local economic development strategies, predevelopment grant feasibility studies, and downtown revitalization programs. Eligible small cities or counties may contract with public agencies or nonprofit economic development corporations and other eligible subgrantees or for profit corporations or entities to provide these services. Each applicant shall be required to provide a cash match of up to 25 percent of the total amount requested. A technical assistance grant received under this 10-percent set-aside is in addition to the city or county ceiling, under Section 50832, or its ability to apply under the economic development or general program set-asides. The maximum grants per year shall be thirty-five thousand dollars ($35,000) per project. Each applicant shall not receive more than two grants per year and shall be eligible to apply each year, although no applicant shall receive grants in excess of thirty-five thousand dollars ($35,000) in any one year. Funds not applied for or allocated under this section may be used for other economic development purposes under Sections 50832 and 50832.1.

(b) Ten percent of the total amount of the Small Cities Block Grant Program funds not used for economic development shall be set aside to make technical assistance grants to eligible small cities or counties for purposes including, but not limited to: inventory of housing needing rehabilitation in the district, income surveys of area residents, and any general studies of housing needs in the district. Each applicant shall be required to provide a cash match of up to 25 percent of the total amount requested. A technical assistance grant received under this 10-percent set-aside is in addition to the city or county ceiling or its ability to apply under the economic development or general program set-asides. Unexpended funds allocated under this section shall revert to the general program, but not to the economic development set-aside. The maximum grant per application shall be thirty-five thousand dollars ($35,000) per project. Each applicant shall not receive more than two grants per year and shall be eligible to apply each year, although no applicant shall receive grants in excess of thirty-five thousand dollars ($35,000) in any one year.

(c) If, under federal law, the 10-percent economic assistance grants and the 10-percent general program assistance grants are considered to be administrative expenditures, the department may reduce the percentages of the set-asides by up to the amount necessary to remain within the allowable limits for administrative expenditures.

(d) Two or more jurisdictions may pool their funds and make a joint application for the same project.

(e) General administrative activity planning studies shall not be counted against allocations under this section.

SEC. 6. Section 50834 of the Health and Safety Code is amended to read:

50834. (a) The department shall prepare a separate and discrete training manual and request for proposal for the economic development set-aside. Once an economic development project award is approved by the director, a contract shall be executed and funds made available as soon as possible.

(b) Any program income received by a city or county grantee, or any loan repayments made by a beneficiary to a grantee, may be utilized by the city or county grantee for any activity currently eligible under federal law and regulations, provided that the department determines that the beneficiary or grantee has complied reasonably with the terms and conditions described in the contract between the grantee and the department.

(c) Any economic development set aside of funds not encumbered for funding of a project by the end of the federal contract period shall revert to the general program and be set aside for use if approved projects for which no funds are available are pending.

(d) The department shall conditionally commit economic development allocations to projects that meet the requirements of this chapter up front, contingent upon the applicant receiving those other funding commitments necessary to complete the project.

(e) Reports on Community Development Block Grants activity shall be submitted annually by the department to the chairs of the appropriate legislative committees and to the Trade and Commerce Agency.

CHAPTER 885

An act to amend Section 1365.5 of the Civil Code, relating to common interest developments.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1365.5 of the Civil Code is amended to read:

1365.5. (a) Unless the governing documents impose more stringent standards, the board of directors of the association shall do all of the following:

(1) Review a current reconciliation of the association's operating accounts on at least a quarterly basis.

(2) Review a current reconciliation of the association's reserve accounts on at least a quarterly basis.

(3) Review, on at least a quarterly basis, the current year's actual reserve revenues and expenses compared to the current year's budget.

(4) Review the latest account statements prepared by the financial institutions where the association has its operating and reserve accounts.

(5) Review an income and expense statement for the association's operating and reserve accounts on at least a quarterly basis.

(b) The signatures of at least two persons, who shall be members of the association's board of directors, or one officer who is not a member of the board of directors and a member of the board of directors, shall be required for the withdrawal of moneys from the association's reserve accounts.

(c) (1) The board of directors shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established.

(2) However, the board may authorize the temporary transfer of money from a reserve fund to the association's general operating fund to meet short-term cash-flow requirements or other expenses, provided the board has made a written finding, recorded in the board's minutes, explaining the reasons that the transfer is needed, and describing when and how the money will be repaid to the reserve fund. The transferred funds shall be restored to the reserve fund within one year of the date of the initial transfer, except that the board may, upon making a finding supported by documentation that a temporary delay would be in the best interests of the common interest development, temporarily delay the restoration. The board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the reserve account, and shall, if necessary, levy a special assessment to recover the full amount of the expended funds within the time limits required by this section. This special assessment is subject to the limitation imposed by Section 1366, unless the special assessment is to pay for legal costs associated with litigation involving the repair, restoration, replacement, or maintenance of, major components which the association is obligated to repair, restore, replace, or maintain. The board may, at its discretion, extend the date the payment on the special assessment is due. Any extension shall not prevent the board from pursuing any legal remedy to enforce the collection of an unpaid special assessment.

(d) When the decision is made to use reserve funds or to temporarily transfer money from the reserve fund to pay for litigation, the association shall notify the members of the association of that decision in the next available mailing to all members pursuant to Section 5016 of the Corporations Code, and of the availability of an accounting of those expenses. Unless the governing documents

impose more stringent standards, the association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by members of the association at the association's office.

(e) At least once every three years the board of directors shall cause a study of the reserve account requirements of the common interest development to be conducted if the current replacement value of the major components which the association is obligated to repair, replace, restore, or maintain is equal to or greater than one-half of the gross budget of the association for any fiscal year. The board shall review this study annually and shall consider and implement necessary adjustments to the board's analysis of the reserve account requirements as a result of that review.

The study required by this subdivision shall at a minimum include:

(1) Identification of the major components which the association is obligated to repair, replace, restore, or maintain which, as of the date of the study, have a remaining useful life of less than 30 years.

(2) Identification of the probable remaining useful life of the components identified in paragraph (1) as of the date of the study.

(3) An estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in paragraph (1) during and at the end of their useful life.

(4) An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in paragraph (1) during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.

(f) As used in this section, "reserve accounts" means moneys that the association's board of directors has identified for use to defray the future repair or replacement of, or additions to, those major components which the association is obligated to maintain.

(g) As used in this section, "reserve account requirements" means the estimated funds which the association's board of directors has determined are required to be available at a specified point in time to repair, replace, or restore those major components which the association is obligated to maintain.

(h) This section does not apply to an association that does not have a "common area" as defined in Section 1351.

CHAPTER 886

An act to add Section 30056 to the Government Code, relating to taxation.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 30056 is added to the Government Code, to read:

30056. (a) Notwithstanding any other provision of this chapter, commencing with the 1994–95 fiscal year, except as provided in subdivision (c), any county, city and county, or city, including any charter city, that funds all combined public safety services within its respective jurisdiction from existing local financial resources, in an amount for the fiscal year that is less than the base amount for that local agency, shall have its total fiscal year allocations from the Public Safety Augmentation Fund reduced by the difference between those amounts. Any amount not allocated to a county as a result of this paragraph shall be allocated to cities in that county in proportion to the total fiscal year allocations otherwise received by those cities pursuant to Section 30054, and any amount not allocated to a city or cities as a result of this paragraph shall be allocated to the county. For purposes of applying this subdivision, the amount of funding within a local jurisdiction for combined public safety services for each fiscal year shall be determined in accordance with the budget adopted by that jurisdiction for that fiscal year. For any city that is subject to a final arbitration decision, that is rendered on or before December 31, 1994, pursuant to binding labor arbitration as required by that city's charter as approved by the voters on November 4, 1980, the amount of funding for combined public safety services for the 1994–95 fiscal year shall be determined in accordance with any amended budget adopted by that city for the 1994–95 fiscal year.

(b) For the purposes of this section:

(1) "Local financial resources" means local general fund appropriations for operational expenses and allocations from the Public Safety Augmentation Fund, but shall not include any of the following amounts:

(A) Grant funds received by a county, city and county, or city, including any charter city, from any source.

(B) Revenues received by a county or city and county for the child support-related activities of the district attorney performed pursuant to Part D Subchapter 4 of the Social Security Act (42 U.S.C. 301 et seq.).

(C) Asset forfeiture revenues received by a county, city and county, or city, including any charter city.

(D) Revenues appropriated by a county, city and county, or city,

including any charter city, for capital outlay expenditures.

(E) Revenues appropriated by a county, city and county, or city, including any charter city, for one-time expenditures.

(F) Any amount that is attributable to a decrease in appropriations by a county, city and county, or city, including any charter city, for retirement costs or workers' compensation costs that do not result in a change in benefit levels.

(G) Revenues received by a county, city and county, or city, including a charter city, pursuant to a contract under which that county, city and county, or city provides public safety services for another jurisdiction.

(H) Revenues that were not appropriated by a county, city and county, or city, including any charter city, for public safety services in the base year, but are so appropriated in the current fiscal year as a result of a change of organization or reorganization that became effective pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 (Part 1 (commencing with Section 56000) of Division 3 of Title 5) subsequent to the base year.

(I) Revenues received by a county or city and county pursuant to Chapter 3 (commencing with Section 15200) of Part 6 of Division 3 of Title 2, or any other reimbursement by the state for homicide trial costs, including, but not limited to, Chapter 1649 of the Statutes of 1990 and its successors.

(J) Revenues derived from any source by a county, city and county, or city, including any charter city to respond to a state of emergency declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2).

(2) "Base year" means, for each county, city and county, or city, the 1992–93 fiscal year.

(3) "Base amount for that local agency" means an amount, equal to the amount of the adopted budget for all combined public safety services within its respective jurisdiction for the base year, that is adjusted as follows:

(A) For the 1994–95 fiscal year only, that amount shall be increased or decreased in accordance with the positive or negative difference between the amount allocated for the 1994–95 fiscal year to that local agency from the Public Safety Augmentation Fund and the corresponding amount allocated to that local agency for the 1993–94 fiscal year. For purposes of this subparagraph, the amount to be allocated to the local agency from the Public Safety Augmentation Fund for the 1994–95 fiscal year shall be estimated based on the allocations to that agency determined over the first six months of that fiscal year.

(B) For the 1995–96 fiscal year and each fiscal year thereafter, that amount shall be increased or decreased in accordance with the positive or negative difference between (i) the amount allocated to the local agency from the Public Safety Augmentation Fund in the immediately preceding fiscal year, and (ii) the corresponding

amount allocated to the local agency in the next preceding fiscal year. Notwithstanding any other provision of this subparagraph, in no event shall the base amount for a local agency be less than the amount of funding for all combined public safety services within the jurisdiction of that local agency for the base year.

(4) The amount of funding for all combined public safety services within the jurisdiction of a local agency for the base year does not include any of the following amounts:

(A) Grant funds from any source expended by a county, city and county, or city, including any charter city, during the base year for public safety services.

(B) Revenues received by a county or city and county for the child support-related activities of the district attorney performed pursuant to Part D of Subchapter 4 of the Social Security Act (42 U.S.C. 301 et seq.).

(C) Asset forfeiture revenues expended by a county, city and county, or city, including any charter city, during the base year for public safety services.

(D) Capital outlay funds expended by a county, city and county, or city, including any charter city, during the base year for public safety.

(E) Any amount expended by a city and county during the base year to fund retirement costs that are not attributable to any change in benefit levels.

(F) Any amount expended by a county, city and county, or city, including any charter city, during the base year to fund one-time expenditures for public safety services.

(G) Any amount expended during the base year by a county, city and county, or city pursuant to a contract under which that county, city and county, or city provides public safety services for another jurisdiction.

(H) Amounts expended by a county, city and county, or city, including any charter city, in the base year for public safety services that are not appropriated for similar expenditure in the current fiscal year as a result of a change of organization or reorganization that became effective pursuant to the Cortese-Knox Local Government Reorganization Act of 1985 (Part 1 (commencing with Section 56000) of Division 3 of Title 5) subsequent to the base year.

(I) Any amount expended during the base year for homicide trial costs that are reimburseable pursuant to Chapter 3 (commencing with Section 15200) of Part 6 of Division 3 of Title 2 or any other program, including, but not limited to, Chapter 1649 of the Statutes of 1990 and its successors.

(J) Any amount expended during the base year to provide public safety services during a state of emergency declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2).

(c) This section shall not be applicable to any of the following jurisdictions:

(1) With respect to a specific fiscal year, any county, city and county, or city whose legislative body has entered into a memorandum of understanding or other binding agreement on or before the adoption of the budget of the county, city, or city and county for that fiscal year with all local public safety entities that relates to those entities' respective shares of the local agency's allocation from the county's Public Safety Augmentation Fund.

(2) Any city for which the amount of the reduction calculated under Section 97.035 of the Revenue and Taxation Code is zero.

(d) Officials of a county, city and county, or city, including any charter city, shall, upon request, provide the county auditor any information that the auditor needs to make the determinations required by this section. In carrying out the requirements of this section, the auditor may, but is not required to, audit the information provided by a county, city and county, or city, including any charter city.

(e) It is the intent of the Legislature that this section shall apply to all cities, including charter cities. The Legislature finds and declares that the allocation of the Public Safety Augmentation Fund is a matter of statewide concern and is not merely a municipal affair or a matter of local interest.

SEC. 2. It is the intent of the Legislature that all funds deposited in the Public Safety Augmentation Fund be utilized for local public safety services. It is not the intent of the Legislature that local governmental entities use the base year level of funding established by this act as a basis to reduce local public safety budgets.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 887

An act relating to health care services.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. (a) Notwithstanding subdivision (g) of Section 16952 of the Welfare and Institutions Code, unexpended funds from the Physician's Services Account for the County of Alameda established pursuant to subdivision (a) of Section 16952 for the 1990–91 and 1991–92 fiscal years shall remain in the account and shall be made available for expenditure for the 1994–95 fiscal year.

(b) Expenses incurred by the County of Alameda for the development of managed care systems to increase access of indigents to physician emergency services may be reimbursed from the funds described in subdivision (a) up to a maximum of eight hundred fifty thousand dollars ($850,000), upon written agreement between the county and the local medical societies.

(c) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

SEC. 2. The Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution due to the unique circumstances concerning the provision of physician emergency services to indigents in the County of Alameda.

CHAPTER 888

An act to amend Section 7153 of the Business and Professions Code, and to amend, repeal, and add Section 1803.2 of the Civil Code, relating to security interests.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 7153 of the Business and Professions Code is amended to read:

7153. (a) It is a misdemeanor for any person to engage in the occupation of salesperson for one or more home improvement contractors within this state without having a registration issued by the registrar for each of the home improvement contractors by whom he or she is employed as a home improvement salesperson.

It is a misdemeanor for any person to engage in the occupation of salesperson of home improvement goods or services within this state without having a registration issued by the registrar.

(b) Any security interest taken by a contractor, to secure any payment for the performance of any act or conduct described in Section 7151 that occurs on or after January 1, 1995, is unenforceable if the person soliciting the act or contract was not a duly registered salesperson or was not exempt from registration pursuant to Section 7152 at the time the homeowner signs the home improvement contract solicited by the salesperson.

SEC. 2. Section 1803.2 of the Civil Code is amended to read:

1803.2. Except as provided in Section 1808.3, every retail installment contract shall be contained in a single document that shall contain:

(a) The entire agreement of the parties with respect to the cost and terms of payment for the goods and services, including any promissory notes or any other evidences of indebtedness between the parties relating to the transaction.

(b) (1) At the top of the contract the words "Security Agreement" shall appear in at least 12-point bold type where a security interest in the goods is retained or a security interest on other goods or realty is obtained by the seller as security for the goods or services purchased.

(2) At the top of the contract the words "Retail Installment Contract" shall appear in at least 12-point bold type where a security interest is not retained or obtained by the seller as security for the goods or services purchased.

(3) Any contract for goods or services that provides for a security interest in real property shall also provide the following notices, written in the same language, e.g., Spanish, as used in the contract: (A) "WARNING TO BUYER: IF YOU SIGN THIS CONTRACT, YOU WILL BE PUTTING UP YOUR HOME AS SECURITY. THIS MEANS THAT YOUR HOME COULD BE SOLD WITHOUT YOUR PERMISSION AND WITHOUT ANY COURT ACTION IF YOU MISS ANY PAYMENT AS REQUIRED BY THIS CONTRACT." This notice shall be printed in at least 14-point boldface type, shall be set apart from the rest of the contract by a border, and shall appear directly below the title of the contract. (B) "STOP—BEFORE YOU SIGN, READ THE WARNING AT THE TOP OF THIS CONTRACT!" This notice shall be printed in at least 14-point boldface type and shall appear directly above the space reserved for the signature of the buyer. A security interest created in any contract described in this paragraph that does not provide the notices as required by this paragraph shall be void and unenforceable.

As used in this subdivision, the term "security interest" refers to a contractual interest in property and not to a mechanic's lien or other interest in property arising by operation of law.

(c) Where the contract includes a finance charge that is determined on the precomputed basis and provides that the

unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, a notice in at least 10-point bold type if the contract is printed reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(d) Where the contract includes a finance charge that is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, a notice in at least 10-point bold type if the contract is printed reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(e) Where the contract includes a finance charge that is determined on the simple-interest basis, a notice in at least 10-point bold type if the contract is printed reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you desire to pay off in advance the full amount due, the amount which is outstanding will be furnished upon request."

(f) This section shall be operative until October 1, 1995, and on that date is repealed.

SEC. 3. Section 1803.2 is added to the Civil Code, to read:

1803.2. Except as provided in Section 1808.3, every retail installment contract shall be contained in a single document that shall contain:

(a) The entire agreement of the parties with respect to the cost and terms of payment for the goods and services, including any promissory notes or any other evidences of indebtedness between the parties relating to the transaction.

(b) (1) At the top of the contract the words "Security Agreement" shall appear in at least 12-point bold type where a security interest in the goods is retained or a security interest on other goods or realty is obtained by the seller as security for the goods or services purchased.

(2) At the top of the contract the words "Retail Installment Contract" shall appear in at least 12-point bold type where a security interest is not retained or obtained by the seller as security for the goods or services purchased.

(3) Any contract for goods or services that provides for a security interest in real property shall also provide the following notice, written in the same language, e.g., Spanish, as used in the contract: "WARNING TO BUYER: IF YOU SIGN THIS CONTRACT, YOU WILL BE PUTTING UP YOUR HOME AS SECURITY. THIS MEANS THAT YOUR HOME COULD BE SOLD WITHOUT YOUR PERMISSION AND WITHOUT ANY COURT ACTION IF YOU MISS ANY PAYMENT AS REQUIRED BY THIS CONTRACT." This notice shall be printed in at least 14-point boldface type, shall be set apart from the rest of the contract by a border, and shall appear directly above the space reserved for the signature of the buyer. A security interest created in any contract described in this paragraph that does not provide the notice as required by this paragraph shall be void and unenforceable.

As used in this subdivision, the term "security interest" refers to a contractual interest in property and not to a mechanic's lien or other interest in property arising by operation of law.

(c) Where the contract includes a finance charge that is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, a notice in at least 10-point bold type if the contract is printed reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(d) Where the contract includes a finance charge that is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, a notice in at least 10-point bold type if the contract is printed reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(e) Where the contract includes a finance charge that is

determined on the simple-interest basis, a notice in at least 10-point bold type if the contract is printed reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you desire to pay off in advance the full amount due, the amount which is outstanding will be furnished upon request."

(f) This section shall become operative on October 1, 1995.

CHAPTER 889

An act to amend Section 20038.5 of the Government Code, relating to state employees.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 20038.5 of the Government Code is amended to read:

20038.5. "Industrial" with respect to state miscellaneous members also means death or disability on or after January 1, 1993, resulting from an injury which is a direct consequence of a violent act perpetrated on his or her person by a patient or client of the State Department of Mental Health at Patton State Hospital or Atascadero State Hospital, an inmate at the Department of Mental Health Psychiatric Program at California Medical Facility at Vacaville, or a patient at any other state hospital which is deemed a forensic facility if:

(a) The member was performing his or her duties within a treatment ward at the time of the injury, or

(b) The member was not within a treatment ward but was acting within the scope of his or her employment at the hospital and is regularly and substantially as part of his or her duties in contact with the patients or clients, and

(c) The member at the time of injury was employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, or

(d) The member was either excluded from the definition of state employee in subdivision (c) of Section 3513 or was a nonelected officer or employee of the executive branch of government who was not a member of the civil service.

(e) This section shall also apply to a state miscellaneous member who is an employee of the State Department of Mental Health at Metropolitan State Hospital or Napa State Hospital, provided the

member meets the conditions prescribed in this section and his or her injury occurred on or after January 1, 1995.

CHAPTER 890

An act to amend Section 8880.32 of the Government Code, relating to the state lottery, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The Legislature hereby finds and declares, as follows:

Current law and practice provides that those who win large lottery prizes are paid in annual installments over a period of 20 years.

Some prizewinners, particularly elderly persons or those persons seeking to acquire a small business, may not want to wait to be paid over the course of up to 20 years.

The state should accommodate the desires of those prizewinners who wish to enjoy more of their winnings currently, as provided by this act.

SEC. 2. Section 8880.32 of the Government Code is amended to read:

8880.32. The commission shall promulgate regulations to establish a system of verifying the validity of prizes and to effect payment of the prizes, provided:

(a) For convenience of the public, lottery game retailers may be authorized by the commission to pay winners of up to six hundred dollars ($600) after performing validation procedures on their premises appropriate to the lottery game involved.

(b) No prize may be paid arising from tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the lottery by applicable deadlines, lacking in captions that confirm and agree with the lottery play symbols required by the lottery game involved, purchased by a minor, or not in compliance with additional specific rules and regulations and confidential validation and security tests appropriate to the particular lottery game. The lottery may pay a prize even though the actual winning ticket is not received by the lottery if the lottery validates the claim for the prize based upon substantial proof. "Substantial proof" means any evidence that would permit the lottery to use established validation procedures, as specified in lottery regulations, to validate the claim.

The commission may require that any form relating to a claim for a prize shall be signed under penalty of perjury. Any such declaration

shall meet the requirements of Section 2015.5 of the Code of Civil Procedure.

(c) No particular prize in any lottery game shall be paid more than once.

(d) The commission may specify that winners of less than twenty-five dollars ($25) claim the prizes from either the same lottery game retailer from whom the ticket or share was purchased or from the lottery itself.

(e) Players shall have the right to claim prize money for 180 days after the drawing or the end of the lottery game or play in which the prize was won. The commission may define shorter time periods for eligibility for participation in, and entry into, drawings involving entries or finalists. If a valid claim is not made for a prize directly payable by the commission or for any on-line game prize within the period applicable for that prize, the unclaimed prize money shall revert to the benefit of the public purpose described in this chapter.

(f) After the expiration of the claim period for prizes for each lottery game, the commission shall make available a detailed tabulation of the total number of tickets or shares actually sold in a lottery game and the total number of prizes of each prize denomination that were actually claimed and paid directly by the commission.

(g) The right of any person to a prize shall not be assignable, except that the payment of any prize may be paid to another person, paid to a person designated pursuant to an appropriate judicial order, or assigned as collateral for an obligation owed to another person, as provided in this subdivision.

(1) During the life of a prizewinner, the right of the prizewinner to a prize shall not be assignable, except that payment of any prize may be made to a person designated pursuant to an appropriate judicial order, or pursuant to any of the following:

(A) An assignment, executed by the winner on a form approved by, and filed with, the commission during the winner's lifetime in accordance with regulations adopted by the commission, to a trust that by its terms is revocable and that is established by the winner for the benefit of the winner as a beneficiary and governed by state law.

(B) An appropriate judicial order appointing a conservator or guardian for the protection of the winner or for adjudicating rights to, or ownership of, the prize.

(C) An assignment as collateral to a person to secure a loan pursuant to Division 9 (commencing with Section 9101) of the Commercial Code. The assignment as collateral of the right to receive payment of a prize shall be subject to all of the following:

(i) All security agreements, rights of the prizewinner, and rights of the secured creditor shall be determined pursuant to state law.

(ii) In the event of a default under the loan or security agreement, the secured creditor's rights shall be limited to receiving the regular payments made by the lottery on the prizewinner's interest until the

obligation is paid in full or the prize has been paid in full, whichever occurs first. Notwithstanding Division 9 (commencing with Section 9101) of the Commercial Code, the secured creditor shall not have the right to sell or assign the prizewinner's rights to payments to itself or to any other person. This section shall not limit the secured creditor's right to sell, assign, or transfer the obligation of the debtor and related security interest to a third party.

(iii) The prizewinner and secured creditor may agree and jointly instruct the lottery to have all prizewinning payments deposited directly into an account maintained by the prizewinner at a federally insured bank located within the state. This account may be subject to the secured creditor's lien. Upon receipt of these instructions, the lottery shall continue to deposit all payments due the prizewinner into the account until the lottery receives notification from the secured creditor and prizewinner that the payments are to be made at an account maintained at another bank or that the secured creditor releases or terminates the security interest in the prizewinner's payments.

(iv) For purposes of perfecting the security interest of the secured creditor, the right of the prizewinner to receive payments is deemed to be a contract right that is perfected by the filing of a financing statement with the Secretary of State.

(v) A copy of the security agreement, an endorsed copy of the financing statement and the joint instructions to deposit the prizewinner's payments directly into a bank account, if any, shall be filed with the lottery. Notwithstanding the security interest granted a creditor, all payments shall be made payable to the prizewinner and the payments shall be sent directly to the prizewinner, except as follows:

(aa) The prizewinner's payments shall be sent directly to the bank designated pursuant to clause (iii).

(bb) The prizewinner's payments shall be sent directly to the secured creditor pursuant to an order of a court of competent jurisdiction, directing the lottery to make the payments directly to the secured creditor.

(vi) Upon the termination or release of the security interest, the secured creditor shall file an endorsed copy of the release or termination of the security interest with the lottery.

(vii) Prior to assignment of any prize as collateral to secure a loan pursuant to this subdivision, the Controller shall determine whether the prizewinner owes any obligation that is subject to offset under Article 2 (commencing with Section 12410) of Chapter 5 of Part 2 of Division 3 of Title 2 of the Government Code and shall provide notification of his or her determination to the commission and to the Secretary of State.

Notwithstanding any other provision of law, a prizewinner, by the act of entering into an agreement to assign any prize as collateral to secure a loan, is deemed to have waived any statutory period of limitations that otherwise would bar collection by the state of annual

prize payments due after expiration of the term of the secured loan for obligations that accrue subsequent to the assignment of the prize as collateral. Any loan secured by the assignment of a lottery prize shall not apply to the last three annual prize payments from the lottery to the prizewinner and the loan shall not exceed a term of 15 years.

(viii) Any loans made to a prizewinner pursuant to this subdivision shall be exempt from the usury provisions of Article XV of the California Constitution with respect to an assignment of a lottery prize as collateral to secure a loan.

(2) Upon the death of the prizewinner, the winner's prize may be paid by any of the following methods:

(A) To the trustee of a trust established pursuant to subparagraph (A) of paragraph (1), or, if the trust has been terminated, to those beneficiaries entitled to distribution thereunder.

(B) To one or more beneficiaries designated on a form approved by the commission for that purpose, executed by the winner, filed with the commission in accordance with regulations adopted by the commission to govern those designations, and in effect upon the winner's death.

(C) In the absence of an assignment to a trust or a beneficiary designation, the winner's prize may be paid as follows:

(i) To the personal representative of the testate or intestate estate of a deceased prizewinner upon receipt by the commission of a court order and letters appointing an executor, administrator, or other personal representative of the estate of the deceased prizewinner, or pursuant to a final order of distribution.

(ii) As provided under Part 1 (commencing with Section 13000) and Part 2 (commencing with Section 13500) of Division 8 of the Probate Code.

(iii) To a person or persons designated under an appropriate judicial order adjudicating rights to the ownership of the prize.

(3) The commission may establish a reasonable fee for any expenses incurred in order to comply with this subdivision. The fee shall be deducted from the prize moneys paid pursuant to this subdivision.

(4) Upon payment of prize moneys pursuant to this subdivision, the director, the commission, and employees of the lottery and the state shall be discharged of any and all liability for the prize paid, and they shall have no duty or obligation to any person asserting another interest in, or right to receive, the prize payment.

(5) The commission shall adopt regulations necessary to implement this subdivision allowing for a limited right of prizewinners to assign their rights to prize payments and setting the reasonable fee for expenses to be recovered by the lottery. The regulations shall be consistent with and shall further the Legislature's intent that prizewinners who wish to do so should be afforded an opportunity to enjoy more of their winnings currently, as provided by Section 1 of the act that amended this section during the 1994

portion of the 1993–94 Regular Session. If the commission deems it necessary, the regulations may require, as a condition to a voluntary assignment pursuant to an appropriate judicial order, that the assignor be represented by independent legal counsel and receive independent financial and tax advice concerning the effect of the assignment.

(h) A ticket or share shall not be purchased by, and a prize shall not be paid to, a member of the commission, any officer or employee of the commission, any officer or employee of the Controller who is designated in writing by the Controller as having possible access to confidential lottery information, programs, or systems, or any spouse, child, brother, sister, or parent of that person who resides within the same household of the person. Any person who knowingly sells or purchases a ticket or share in violation of this section, or who knowingly claims or attempts to claim a prize with a ticket or share that was purchased or sold in violation of this section, is guilty of a misdemeanor.

(i) No prize shall be paid to any person under the age of 18 years. Any person who knowingly claims or attempts to claim a prize with a ticket or share purchased by a person under the age of 18 years is guilty of a misdemeanor.

SEC. 3. The Legislature finds and declares that this act furthers the purposes of the California State Lottery Act of 1984.

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

In order to allow lottery prizewinners the flexibility to customize the receipt of their prizes to suit their individual and personal circumstances, it is necessary that this bill take effect immediately.

CHAPTER 891

An act to amend Section 164.55 of the Streets and Highways Code, relating to transportation.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 164.55 of the Streets and Highways Code is amended to read:

164.55. (a) The department, in cooperation with local transportation officials, shall develop guidelines to implement the intercity rail program. The guidelines shall define the criteria to identify and prioritize projects which can be implemented not later than June 30, 2001, and will provide an efficient system of intercity

rail services in the state.

(b) Allocations for intercity rail projects are not required by this section to be matched by local entities.

(c) The commission shall give high priority and an appropriate level of funding to the development and enhancement of an efficient and effective intercity passenger rail system in the state.

(d) "Intercity rail" has the same meaning as the term "intercity rail passenger service" as defined in the Rail Passenger Service Act (45 U.S.C. Sec. 502(11)).

(e) Intercity rail projects eligible for funding include the following corridors:

(1) Los Angeles-San Diego.

(2) Santa Barbara-Los Angeles.

(3) Los Angeles-Fresno-San Francisco Bay area and Sacramento.

(4) San Francisco Bay area-Sacramento-Auburn.

(5) San Francisco-Santa Rosa-Eureka.

(6) Santa Barbara-San Luis Obispo County-San Jose.

(7) Los Angeles-Fullerton-Riverside-Coachella Valley-Calexico.

(f) The department shall submit the guidelines to the commission not later than July 1, 1990, and the commission shall adopt the guidelines not later than September 1, 1990.

(g) Any intercity rail corridor that was included among the corridors enumerated in subdivision (e) subsequent to the enactment of this section by Chapter 106 of the Statutes of 1989 is eligible to compete for funding, and funds that had been programmed or allocated prior to the inclusion of the additional eligible corridors need not be programmed or reallocated.

CHAPTER 892

An act to amend Section 12921.1 of the Insurance Code, relating to insurance.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. It is the intent of the Legislature in codifying the Department of Insurance complaint procedure that the system adopted in regulations provide reasonable notice to insurers of the particulars of complaint resolution and not be construed to permit insurers routinely to contest the department's determinations on complaints.

SEC. 2. Section 12921.1 of the Insurance Code is amended to read:

12921.1. (a) The commissioner shall establish a program on or before July 1, 1991, to investigate complaints and respond to inquiries

received pursuant to Section 12921.3, to comply with Section 12921.4, and, when warranted, to bring enforcement actions against insurers. The program shall include, but not be limited to, the following:

(1) A toll-free number published in telephone books throughout the state, dedicated to the handling of complaints and inquiries.

(2) Public service announcements to inform consumers of the toll-free telephone number and how to register a complaint or make an inquiry to the department.

(3) A simple, standardized complaint form designed to assure that complaints will be properly registered and tracked.

(4) Retention of records on complaints for at least three years after the complaint has been closed.

(5) Guidelines to disseminate complaint and enforcement information on individual insurers to the public, that shall include, but not be limited to, the following:

(A) License status.

(B) Number and type of complaints closed within the last full calendar year, with analogous statistics from the prior two years for comparison. The proportion of those complaints determined by the department to require that corrective action be taken against the insurer, or leading to insurer compromise, or other remedy for the complainant, as compared to those which are found to be without merit. This information shall be disseminated in a fashion that will facilitate identification of meritless complaints and discourage their consideration by consumers and others interested in the records of insurers.

(C) Number and type of violations found.

(D) Number and type of enforcement actions taken.

(E) Ratio of complaints received to total policies in force, or premium dollars paid in a given line, or both. Private passenger automobile insurance ratios shall be calculated as the number of complaints received to total car years earned in the period studied.

(F) Any other information the department deems is appropriate public information regarding the complaint record of the insurer that will assist the public in selecting an insurer. However, nothing in this section shall be construed to permit disclosure of information or documents in the possession of the department to the extent that the information and those documents are protected from disclosure under any other provision of law.

(6) Procedures and average processing times for each step of complaint mediation, investigation, and enforcement. These procedures shall be consistent with those in Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2 of Division 1 for complaints within the purview of that article, consistent with those in Article 7 (commencing with Section 1858) of Chapter 9 of Part 2 of Division 1 for complaints within the purview of that article, and consistent with any other provisions of law requiring certain procedures to be followed by the department in investigating or prosecuting complaints against insurers.

(7) A list of criteria to determine which violations should be pursued through enforcement action, and enforcement guidelines that set forth appropriate penalties for violations based on the nature, severity, and frequency of the violations.

(8) Referral of complaints not within the department's jurisdiction to appropriate public and private agencies.

(9) Complaint handling goals that can be tested against surveys carried out pursuant to subdivision (a) of Section 12921.4.

(10) Inclusion in its annual report to the Governor, required by Section 12922, detailed information regarding the program required by this section, that shall include, but not be limited to: a description of the operation of the complaint handling process, listing civil, criminal, and administrative actions taken pursuant to complaints received; the percentage of the department's personnel years devoted to the handling and resolution of complaints; and suggestions for legislation to improve the complaint handling apparatus and to increase the amount of enforcement action undertaken by the department pursuant to complaints if further enforcement is deemed necessary to insure proper compliance by insurers with the law.

(b) The commissioner shall promulgate a regulation that sets forth the criteria that the department shall apply to determine if a complaint is deemed to be justified prior to the public release of a complaint against a specifically named insurer.

(c) The commissioner shall provide to the insurer a description of any complaint against the insurer that the commissioner has received and has deemed to be justified at least 30 days prior to public release of a report summarizing the information required by this section. This description shall include all of the following:

(1) The name of the complainant.

(2) The date the complaint was filed.

(3) A succinct description of the facts of the complaint.

(4) A statement of the department's rationale for determining that the complaint was justified that applies the department's criteria to the facts of the complaint.

(d) An insurer shall provide to the department the name, mailing address, telephone number, and facsimile number of a person whom the insurer designates as the recipient of all notices, correspondence, and other contacts from the department concerning complaints described in this section. The insurer may change the designation at any time by providing written notice to the Consumer Services Division of the department.

(e) For the purposes of this section, notices, correspondence, and other contacts with the designated person shall be deemed contact with the insurer.

CHAPTER 893

An act to amend Section 12921.1 of the Insurance Code, relating to the Insurance Commissioner.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 12921.1 of the Insurance Code is amended to read:

12921.1. The commissioner shall establish a program on or before July 1, 1991, to investigate complaints and respond to inquiries received pursuant to Section 12921.3, to comply with Section 12921.4, and, when warranted, to bring enforcement actions against insurers. The program shall include, but not be limited to, the following:

(a) A toll-free number published in telephone books throughout the state, dedicated to the handling of complaints and inquiries.

(b) Public service announcements to inform consumers of the toll-free telephone number and how to register a complaint or make an inquiry to the department.

(c) A simple, standardized complaint form designed to assure that complaints will be properly registered and tracked.

(d) Retention of records on complaints for at least three years after the complaint has been closed.

(e) Guidelines to disseminate complaint and enforcement information on individual insurers to the public, that shall include, but not be limited to, the following:

(1) License status.

(2) Number and type of complaints closed within the last full calendar year, with analogous statistics from the prior two years for comparison. The proportion of those complaints determined by the department to require that corrective action be taken against the insurer, or leading to insurer compromise, or other remedy for the complainant, as compared to those which are found to be without merit. This information shall be disseminated in a fashion that will facilitate identification of meritless complaints and discourage their consideration by consumers and others interested in the records of insurers.

(3) Number and type of violations found.

(4) Number and type of enforcement actions taken.

(5) Ratio of complaints received to total policies in force, or premium dollars paid in a given line, or both. Private passenger automobile insurance ratios shall be calculated as the number of complaints received to total car years earned in the period studied.

(6) Any other information the department deems is appropriate public information regarding the complaint record of the insurer that will assist the public in selecting an insurer. However, nothing

in this section shall be construed to permit disclosure of information or documents in the possession of the department to the extent that the information and those documents are protected from disclosure under any other provision of law.

(f) Procedures and average processing times for each step of complaint mediation, investigation, and enforcement. These procedures shall be consistent with those in Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2 of Division 1 for complaints within the purview of that article, consistent with those in Article 7 (commencing with Section 1858) of Chapter 9 of Part 2 of Division 1 for complaints within the purview of that article, and consistent with any other provisions of law requiring certain procedures to be followed by the department in investigating or prosecuting complaints against insurers.

(g) A list of criteria to determine which violations should be pursued through enforcement action, and enforcement guidelines that set forth appropriate penalties for violations based on the nature, severity, and frequency of the violations.

(h) Referral of complaints not within the department's jurisdiction to appropriate public and private agencies.

(i) Complaint handling goals that can be tested against surveys carried out pursuant to subdivision (a) of Section 12921.4.

(j) Inclusion in its annual report to the Governor, required by Section 12922, detailed information regarding the program required by this section, that shall include, but not be limited to: a description of the operation of the complaint handling process, listing civil, criminal, and administrative actions taken pursuant to complaints received; the percentage of the department's personnel years devoted to the handling and resolution of complaints; and suggestions for legislation to improve the complaint handling apparatus and to increase the amount of enforcement action undertaken by the department pursuant to complaints if further enforcement is deemed necessary to insure proper compliance by insurers with the law.

SEC. 2. Section 12921.1 of the Insurance Code is amended to read:

12921.1. (a) The commissioner shall establish a program on or before July 1, 1991, to investigate complaints and respond to inquiries received pursuant to Section 12921.3, to comply with Section 12921.4, and, when warranted, to bring enforcement actions against insurers. The program shall include, but not be limited to, the following:

(1) A toll-free number published in telephone books throughout the state, dedicated to the handling of complaints and inquiries.

(2) Public service announcements to inform consumers of the toll-free telephone number and how to register a complaint or make an inquiry to the department.

(3) A simple, standardized complaint form designed to assure that complaints will be properly registered and tracked.

(4) Retention of records on complaints for at least three years

after the complaint has been closed.

(5) Guidelines to disseminate complaint and enforcement information on individual insurers to the public, that shall include, but not be limited to, the following:

(A) License status.

(B) Number and type of complaints closed within the last full calendar year, with analogous statistics from the prior two years for comparison. The proportion of those complaints determined by the department to require that corrective action be taken against the insurer, or leading to insurer compromise, or other remedy for the complainant, as compared to those that are found to be without merit. This information shall be disseminated in a fashion that will facilitate identification of meritless complaints and discourage their consideration by consumers and others interested in the records of insurers.

(C) Number and type of violations found.

(D) Number and type of enforcement actions taken.

(E) Ratio of complaints received to total policies in force, or premium dollars paid in a given line, or both.

Private passenger automobile insurance ratios shall be calculated as the number of complaints received to total car years earned in the period studied.

(F) Any other information the department deems is appropriate public information regarding the complaint record of the insurer that will assist the public in selecting an insurer. However, nothing in this section shall be construed to permit disclosure of information or documents in the possession of the department to the extent that the information and those documents are protected from disclosure under any other provision of law.

(6) Procedures and average processing times for each step of complaint mediation, investigation, and enforcement. These procedures shall be consistent with those in Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2 of Division 1 for complaints within the purview of that article, consistent with those in Article 7 (commencing with Section 1858) of Chapter 9 of Part 2 of Division 1 for complaints within the purview of that article, and consistent with any other provisions of law requiring certain procedures to be followed by the department in investigating or prosecuting complaints against insurers.

(7) A list of criteria to determine which violations should be pursued through enforcement action, and enforcement guidelines that set forth appropriate penalties for violations based on the nature, severity, and frequency of the violations.

(8) Referral of complaints not within the department's jurisdiction to appropriate public and private agencies.

(9) Complaint handling goals that can be tested against surveys carried out pursuant to subdivision (a) of Section 12921.4.

(10) Inclusion in its annual report to the Governor, required by Section 12922, detailed information regarding the program required

by this section, that shall include, but not be limited to: a description of the operation of the complaint handling process, listing civil, criminal, and administrative actions taken pursuant to complaints received; the percentage of the department's personnel years devoted to the handling and resolution of complaints; and suggestions for legislation to improve the complaint handling apparatus and to increase the amount of enforcement action undertaken by the department pursuant to complaints if further enforcement is deemed necessary to insure proper compliance by insurers with the law.

(b) The commissioner shall promulgate a regulation that sets forth the criteria that the department shall apply to determine if a complaint is deemed to be justified prior to the public release of a complaint against a specifically named insurer.

(c) The commissioner shall provide to the insurer a description of any complaint against the insurer that the commissioner has received and has deemed to be justified at least 30 days prior to public release of a report summarizing the information required by this section. This description shall include all of the following:

(1) The name of the complainant.

(2) The date the complaint was filed.

(3) A succinct description of the facts of the complaint.

(4) A statement of the department's rationale for determining that the complaint was justified that applies the department's criteria to the facts of the complaint.

(d) An insurer shall provide to the department the name, mailing address, telephone number, and facsimile number of a person whom the insurer designates as the recipient of all notices, correspondence, and other contacts from the department concerning complaints described in this section. The insurer may change the designation at any time by providing written notice to the Consumer Services Division of the department.

(e) For the purposes of this section, notices, correspondence, and other contacts with the designated person shall be deemed contact with the insurer.

SEC. 3. Section 2 of this bill incorporates amendments to Section 12921.1 of the Insurance Code proposed by both this bill and AB 2601. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) each bill amends Section 12921.1 of the Insurance Code, and (3) this bill is enacted after AB 2061, in which case Section 1 of this bill shall not become operative.

CHAPTER 894

An act to amend Section 22659.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 22659.5 of the Vehicle Code, as amended by Chapter 161 of the Statutes of 1994, is amended to read:

22659.5. (a) Notwithstanding any other provision of law, the County of Alameda, any city in that county, the County of Contra Costa, any city in that county, the County of San Diego, any city in that county, the County of Sacramento, any city in that county, the City and County of San Francisco, the City of Signal Hill, the City of Long Beach, and the City of Los Angeles with respect to that portion of that city situated in the San Fernando Valley statistical area, as described in subdivision (c) of Section 11093 of the Government Code, may adopt an ordinance establishing a five-year pilot program which implements procedures for declaring any motor vehicle a public nuisance when the vehicle is used in the commission of an act in violation of Section 266h or 266i of the Penal Code or subdivision (b) of Section 647 of that code, and there is a conviction of Section 266h or 266i of the Penal Code or subdivision (b) of Section 647 of that code, or a provision involving any lesser included offense to which the defendant enters a plea of guilty or nolo contendere as part of a plea agreement subsequent to the defendant having been charged with a violation of Section 266h or 266i of the Penal Code or subdivision (b) of Section 647 of that code.

(b) In addition to the authority provided by subdivision (h) of Section 22651, the ordinance may also include procedures to enjoin and abate the declared nuisance by ordering the defendant not to use the vehicle again for purposes of violating Section 266h or 266i of the Penal Code or subdivision (b) of Section 647 of that code and authorizing the temporary impoundment of the vehicle that the court has declared a nuisance if the defendant violates the order. The impoundment shall not exceed 48 hours.

(c) The only action that may be taken to enjoin and abate the declared nuisance are those actions specified in subdivision (b).

(d) Any procedures implemented pursuant to this section shall ensure that no vehicle shall be declared a nuisance if the vehicle is stolen, unless it is not possible to reasonably ascertain the identity of any owner of the vehicle.

(e) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

CHAPTER 895

An act to amend Sections 2154, 2454.5, and 2456.1 of, and to amend, repeal, and add Section 2455 of, the Business and Professions Code, relating to osteopathic medicine, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 2154 of the Business and Professions Code is amended to read:

2154. Notwithstanding any other provisions of law, the Osteopathic Medical Board of California shall issue an osteopathic physician's and surgeon's certificate on reciprocity to an applicant providing he or she meets the following requirements:

(a) The applicant holds an unlimited license to engage in the practice of osteopathic medicine in another state whose written licensing examination is recognized and approved by the board to be equivalent in content to that administered in California. For the purposes of this section, the board may recognize and approve as equivalent, along with other examinations, an examination prepared by the Federation of State Medical Boards if an applicant had been licensed in another state as a result of the successful completion, prior to December 31, 1993, of that examination. In lieu of a board recognized and approved state written license examination, the board may require the applicant to successfully complete a special examination in general medicine and osteopathic principles prepared by the National Board of Osteopathic Medical Examiners, or the Osteopathic Medical Board of California. The board may also utilize a special purpose examination prepared by the Federation of State Medical Boards.

(b) The board determines that no disciplinary action has been taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine which the board determines constitutes evidence of a pattern of negligence or incompetence.

(c) The applicant successfully completes an oral, clinical, and practical examination, as determined by the board.

SEC. 2. Section 2454.5 of the Business and Professions Code is amended to read:

2454.5. In order to ensure the continuing competence of licensed osteopathic physicians and surgeons, the board shall adopt and administer standards for the continuing education of those licensees. The board shall require each licensed osteopathic physician and surgeon to demonstrate satisfaction of the continuing education

requirements as a condition for the renewal of a license at intervals of not less than one year nor more than three years. Commencing January 1, 1995, the board shall require each licensed osteopathic physician and surgeon to complete a minimum of 150 hours of American Osteopathic Association continuing education hours during each three-year cycle, of which 60 hours must be completed in American Osteopathic Association Category 1 continuing education hours as a condition for renewal of an active license.

For purposes of this section, "American Osteopathic Association Category 1" means continuing education activities and programs approved for Category 1 credit by the Committee on Continuing Medical Education of the American Osteopathic Association.

SEC. 3. Section 2455 of the Business and Professions Code is amended to read:

2455. The amount of fees and refunds is that established by the following schedule for any certificate issued by the Osteopathic Medical Board of California. All other fees and refunds for any certificate issued by the Osteopathic Medical Board of California which are not prescribed in this schedule, are prescribed in Section 2456. Any and all fees received by the Osteopathic Medical Board of California shall be for the sole purpose of the operations of the board and shall not be expended for any other purpose.

(a) Each applicant for an original or reciprocity Physicians and Surgeons Certificate shall pay an application fee in a sum not to exceed two hundred dollars ($200) at the time his or her application is filed. If the applicant's credentials are insufficient, or if he or she does not take the examination, the board may retain a sum equal to the actual cost of processing the application, not to exceed one hundred fifty dollars ($150) and the remainder of the fee is returnable upon application.

(b) The oral and practical examination fee shall not exceed two hundred dollars ($200) nor be less than fifty dollars ($50).

(c) The annual tax and registration fee, unless otherwise provided, shall be set by the board on or before November 1 of each year for the ensuing calendar year at a sum as the board determines necessary to defray the expenses of administering this chapter, under the Osteopathic Act, relating to the issuance of certificates to those applicants, which sum, however, shall, not exceed three hundred dollars ($300) nor be less than twenty-five dollars ($25). Eighty percent of the annual tax and registration fee that is in excess of two hundred dollars ($200) shall be for the sole purpose of the board's enforcement activities.

(d) The board shall set an annual tax and registration fee in an amount less than that levied pursuant to subdivision (c) that shall be paid by any applicant who indicates to the board in writing that he or she does not intend to practice under the Osteopathic Act during the renewal period covered by that annual tax and registration fee.

(e) The fee for failure to pay the annual tax and registration fee shall be 50 percent of the renewal fee but not more than one hundred

fifty dollars ($150). Eighty percent of the fee for failure to pay the annual tax and registration fee that is in excess of one hundred dollars ($100) shall be for the sole purpose of the board's enforcement activities.

(f) This section shall become operative on, the later of, July 1, 1994, or the effective date of this section.

(g) This section shall remain in effect only until July 1, 1999, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 1999, deletes or extends that date.

SEC. 4. Section 2455 is added to the Business and Professions Code, to read:

2455. The amount of fees and refunds is that established by the following schedule for any certificate issued by the Osteopathic Medical Board of California. All other fees and refunds for any certificate issued by the Osteopathic Medical Board of California which are not prescribed in this schedule, are prescribed in Section 2456. Any and all fees received by the Osteopathic Medical Board of California shall be for the sole purpose of the operation of the board and shall not be used for any other purpose.

(a) Each applicant for an original or reciprocity Physicians and Surgeons Certificate shall pay an application fee in a sum not to exceed two hundred dollars ($200) at the time his or her application is filed. If the applicant's credentials are insufficient, or if he or she does not take the examination, the board may retain a sum equal to the actual cost of processing the application, not to exceed one hundred fifty dollars ($150) and the remainder of the fee is returnable upon application.

(b) The oral and practical examination fee shall not exceed two hundred dollars ($200) nor be less than fifty dollars ($50).

(c) The annual tax and registration fee, unless otherwise provided, shall be set by the board on or before November 1 of each year for the ensuing calendar year at a sum as the board determines necessary to defray the expenses of administering this chapter, under the Osteopathic Act, relating to the issuance of certificates to those applicants, which sum, however, shall, not exceed two hundred dollars ($200) nor be less than twenty-five dollars ($25).

(d) The board shall set an annual tax and registration fee in an amount less than that levied pursuant to subdivision (c) that shall be paid by any applicant who indicates to the board in writing that he or she does not intend to practice under the Osteopathic Act during the renewal period covered by that annual tax and registration fee.

(e) The fee for failure to pay the annual tax and registration fee shall be 50 percent of the renewal fee but not more than one hundred dollars ($100).

(f) This section shall become operative on July 1, 1999.

SEC. 5. Section 2456.1 of the Business and Professions Code is amended to read:

2456.1. All osteopathic physician's and surgeon's certificates shall expire at 12 midnight on the last day of the birth month of the

licensee during the second year of a two-year term if not renewed on or before that day.

The board shall establish by regulation procedures for the administration of a birth date renewal program, including, but not limited to, the establishment of a system of staggered license expiration dates such that a relatively equal number of licenses expire monthly.

To renew an unexpired license, the licensee shall, on or before the dates on which it would otherwise expire, apply for renewal on a form prescribed by the board and pay the prescribed renewal fee.

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

The Osteopathic Medical Board of California is currently experiencing a fiscal crisis and in order to perform the enforcement and investigation functions that are vital to protecting the health and safety of the public, it is necessary that this act take effect immediately.

CHAPTER 896

An act to amend Sections 65008, 65589.5, and 65852.3 of the Government Code, and to amend Sections 18214, 18215, 18217, and 18801 of, and to add Section 17021.7 to, the Health and Safety Code, relating to land use.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 65008 of the Government Code is amended to read:

65008. (a) Any action pursuant to this title by any city, county, city and county, or other local governmental agency in this state is null and void if it denies to any individual or group of individuals the enjoyment of residence, landownership, tenancy, or any other land use in this state because of any of the following reasons:

(1) The race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, or age of the individuals or group of individuals.

(2) The method of financing of any residential development of the individual or group of individuals.

(3) The intended occupancy of any residential development by persons or families of low, moderate, or middle income.

(b) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances

pursuant to this title, prohibit or discriminate against any residential development or emergency shelter because of the method of financing or the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, or age of the owners or intended occupants of the residential development or emergency shelter.

(c) (1) No city, county, city and county, or other local governmental agency shall, in the enactment or administration of ordinances pursuant to this title, prohibit or discriminate against a residential development or emergency shelter because the development or shelter is intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income.

(2) For the purposes of this section, "persons and families of middle income" means persons and families whose income does not exceed 150 percent of the median income for the county in which the persons or families reside.

(d) (1) No city, county, city and county, or other local governmental agency may impose different requirements on a residential development or emergency shelter which is subsidized, financed, insured, or otherwise assisted by the federal or state governments or by a local public entity, as defined in Section 50079 of the Health and Safety Code, than those imposed on nonassisted developments, except as provided in subdivision (e).

(2) No city, county, city and county, or other local governmental agency may, because of the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, or age of the intended occupants, or because the development is intended for occupancy by persons and families of low, moderate, or middle income, impose different requirements on these residential developments than those imposed on developments generally, except as provided in subdivision (e).

(e) Nothing in this title shall be construed to prohibit a city, county, or city and county from extending preferential treatment to residential developments or emergency shelters assisted by the federal or state governments or by a local public entity, as defined in Section 50079 of the Health and Safety Code, or other residential developments or emergency shelters intended for occupancy by persons and families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, or agricultural employees, as defined in subdivision (b) of Section 1140.4 of the Labor Code, and their families. This preferential treatment may include, but need not be limited to, reduction or waiver of fees or changes in architectural requirements, site development and property line requirements, building setback requirements, or vehicle parking requirements which reduce development costs of these developments.

(f) "Residential development," as used in this section, means a single-family residence or a multifamily residence, including

manufactured homes, as defined in Section 18007 of the Health and Safety Code.

(g) This section shall apply to chartered cities.

(h) The Legislature finds and declares that discriminatory practices which inhibit the development of housing for persons and families of low, moderate, and middle income, or emergency shelters for the homeless, are a matter of statewide concern.

SEC. 2. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) The Legislature finds all of the following:

(1) The lack of affordable housing is a critical problem which threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments which limit the approval of affordable housing, increase the cost of land for affordable housing, and require that high fees and exactions be paid by producers of potentially affordable housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions which result in disapproval of affordable housing projects, reduction in density of affordable housing projects, and excessive standards for affordable housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible affordable housing developments which contribute to meeting the housing need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without meeting the provisions of subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands to urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project affordable to low- and moderate-income households or condition approval in a manner which renders the project infeasible for development for the use of low- and moderate-income households unless it finds, based upon substantial evidence, one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article and the development project is not needed for the jurisdiction to meet its share of the regional housing need of low-income or very low income housing.

(2) The development project as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households. As used in this paragraph, a "specific, adverse impact" means a significant, unavoidable impact, as provided in written standards, policies, or conditions.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households.

(4) Approval of the development project would increase the concentration of lower income households in a neighborhood that already has a disproportionately high number of lower income households and there is no feasible method of approving the development at a different site, including those sites identified pursuant to paragraph (1) of subdivision (c) of Section 65583, without rendering the development unaffordable to low- and moderate-income households.

(5) The development project is proposed on land zoned for agriculture or resource preservation which is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or waste water facilities to serve the project.

(6) The development project is inconsistent with the jurisdiction's general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a housing element pursuant to this article.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with written development standards, conditions, and policies appropriate to, and consistent with, meeting the quantified objectives relative to the development of housing, as required in the housing element

pursuant to subdivision (b) of Section 65583. Nor shall anything in this section be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law which are essential to provide necessary public services and facilities to the development project.

(g) This section shall be applicable to charter cities, because the Legislature finds that the lack of affordable housing is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Affordable to low- and moderate-income households" means at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, and the remaining units shall be sold or rented to either lower income households or persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate income eligibility limits are based.

(3) "Area median income" shall mean area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for the lower income households in accordance with the provisions of this subdivision for 30 years.

(4) "Neighborhood" means a planning area commonly identified as such in a community's planning documents, and identified as a neighborhood by the individuals residing and working within the neighborhood. Documentation demonstrating that the area meets the definition of neighborhood may include a map prepared for planning purposes which lists the name and boundaries of the neighborhood.

(i) If any city, county, or city and county denies approval or imposes restrictions, including a reduction of allowable densities or the percentage of a lot which may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, which have a substantial adverse effect on the viability or

affordability of a housing development affordable to low- and moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d).

(j) When a proposed housing development project complies with the applicable general plan, zoning, and development policies in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, unavoidable impact, as provided in written standards, policies, or conditions.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

SEC. 3. Section 65852.3 of the Government Code is amended to read:

65852.3. (a) A city, including a charter city, county, or city and county, shall allow the installation of manufactured homes certified under the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Secs. 5401 et seq.) on a foundation system, pursuant to Section 18551 of the Health and Safety Code, on lots zoned for conventional single-family residential dwellings. Except with respect to architectural requirements, a city, including a charter city, county, or city and county, shall only subject the manufactured home and the lot on which it is placed to the same development standards to which a conventional single-family residential dwelling on the same lot would be subject, including, but not limited to, building setback standards, side and rear yard requirements, standards for enclosures, access, and vehicle parking, aesthetic requirements, and minimum square footage requirements. Any architectural requirements imposed on the manufactured home structure itself, exclusive of any requirement for any and all additional enclosures, shall be limited to its roof overhang, roofing material, and siding material. These architectural requirements may be imposed on manufactured homes even if similar requirements are not imposed on conventional single-family residential dwellings. However, any architectural requirements for roofing and siding

material shall not exceed those which would be required of conventional single-family dwellings constructed on the same lot. At the discretion of the local legislative body, the city or county may preclude installation of a manufactured home in zones specified in this section if more than 10 years have elapsed between the date of manufacture of the manufactured home and the date of the application for the issuance of a permit to install the manufactured home in the affected zone. In no case may a city, including a charter city, county, or city and county, apply any development standards that will have the effect of precluding manufactured homes from being installed as permanent residences.

(b) At the discretion of the local legislative body, any place, building, structure, or other object having a special character or special historical interest or value, and which is regulated by a legislative body pursuant to Section 37361, may be exempted from this section, provided the place, building, structure, or other object is listed on the National Register of Historic Places.

SEC. 4. Section 17021.7 is added to the Health and Safety Code, to read:

17021.7. Notwithstanding subdivision (b) of Section 18214, subdivision (b) of Section 18215, and subdivision (b) of Section 18217, mobilehomes and recreational vehicles used to house agricultural employees shall be maintained in conformity with the applicable requirements of the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200)).

SEC. 5. Section 18214 of the Health and Safety Code is amended to read:

18214. (a) "Mobilehome park" is any area or tract of land where two or more mobilehome lots are rented or leased, held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate manufactured homes or mobilehomes used for human habitation. The rental paid for a manufactured home or mobilehome shall be deemed to include rental for the lot it occupies.

(b) Notwithstanding subdivision (a), an area or tract of land zoned for agricultural purposes where two or more mobilehome lots or spaces are rented or leased, held out for rent or lease, or provided as a term or condition of employment, to accommodate manufactured homes or mobilehomes used for the purpose of housing 12 or fewer agricultural employees shall not be deemed a mobilehome park.

(c) Notwithstanding subdivision (a), an area or tract of land shall not be deemed a mobilehome park if the structures on it consist of residential structures that are rented or leased, or held out for rent or lease, if those residential structures meet both of the following requirements:

(1) The residential structures are manufactured homes constructed pursuant to the National Manufactured Housing

Construction and Safety Act of 1974 (42 U.S.C., Secs. 5401 et seq.) or mobilehomes containing two or more dwelling units for human habitation.

(2) Those manufactured homes or mobilehomes have been approved by a city, county, or city and county pursuant to subdivision (d) of Section 17951 as an alternate which is at least the equivalent to the requirements prescribed in the California Building Standards Code or Part 1.5 (commencing with Section 17910) in performance, safety, and for the protection of life and health.

SEC. 6. Section 18215 of the Health and Safety Code is amended to read:

18215. (a) "Recreational vehicle park" is any area or tract of land, or a separate designated section within a mobilehome park, where two or more lots are rented or leased or held out for rent, or lease to owners or users of recreational vehicles or tents.

(b) Notwithstanding subdivision (a), an area or tract of land zoned for agricultural purposes where two or more lots are rented or leased, or held out for rent or lease, to owners or users of recreational vehicles or tents for the purpose of housing 12 or fewer agricultural employees, shall not be deemed a recreational vehicle park.

SEC. 7. Section 18217 of the Health and Safety Code is amended to read:

18217. (a) "Temporary recreational vehicle park" is any area or tract of land where two or more lots are rented or leased or held out for rent or lease to owners or users of recreational vehicles and which is established for one operation not to exceed 11 consecutive days, and is then removed.

(b) Notwithstanding subdivision (a), an area or tract of land zoned for agricultural purposes where two or more lots are rented or leased, or held out for rent or lease, to owners or users of recreational vehicles for the purpose of housing 12 or fewer agricultural employees, shall not be deemed a temporary recreational vehicle park.

SEC. 8. Section 18801 of the Health and Safety Code is amended to read:

18801. (a) "Manufactured housing community," as used in this part and Part 2.1 (commencing with Section 18200), means any area or tract of land where two or more manufactured home lots are rented or leased, held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, only to accommodate the use of manufactured homes constructed pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Secs. 5401 et seq.) or mobilehomes containing two or more dwelling units for human habitation. The rental paid for a manufactured home shall be deemed to include rental for the lot it occupies.

(b) Notwithstanding subdivision (a), an area or tract of land

zoned for agricultural purposes where two or more manufactured home lots are rented or leased, held out for rent or lease, or provided as a term or condition of employment to accommodate manufactured homes or mobilehomes used for the purpose of housing 12 or fewer agricultural employees, shall not be deemed a manufactured housing community.

(c) Notwithstanding subdivision (a), an area or tract of land shall not be deemed a mobilehome park if the structures on it consist of residential structures that are rented or leased, or held out for rent or lease, if those residential structures meet both of the following requirements:

(1) The residential structures are manufactured homes constructed pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Secs. 5401 et seq.) or mobilehomes containing two or more dwelling units for human habitation.

(2) Those manufactured homes or mobilehomes have been approved by a city, county, or city and county pursuant to subdivision (d) of Section 17951 as an alternate which is at least the equivalent to the requirements prescribed in the California Building Standards Code or Part 1.5 (commencing with Section 17910) in performance, safety, and for the protection of life and health.

SEC. 9. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 897

An act to add Part 7 (commencing with Section 36600) to Division 18 of the Streets and Highways Code, relating to benefit assessments.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Part 7 (commencing with Section 36600) is added to Division 18 of the Streets and Highways Code, to read:

PART 7. PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994

CHAPTER 1. GENERAL PROVISIONS

Article 1. Declarations

36600. This part shall be known and may be cited as the "Property and Business Improvement District Law of 1994."

36601. The Legislature finds and declares all of the following:

(a) Businesses located and operating within the business districts of this state's communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.

(b) It is in the public interest to promote the economic revitalization and physical maintenance of the business districts of its cities in order to create jobs, attract new businesses, and prevent the erosion of the business districts.

(c) It is of particular local benefit to allow cities to fund property related improvements, maintenance, and activities through the levy of assessments upon the real property that benefits from those improvements.

(d) Assessments levied for the purpose of providing improvements and promoting activities that benefit real property are not taxes for the general benefit of a city, but are assessments for the improvements and activities which confer special benefits upon the real property for which the improvement and activities are provided.

36602. The purpose of this part is to supplement previously enacted provisions of law that authorize cities to levy assessments within a business improvement area. This part does not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes.

36603. Nothing in this part is intended to preempt the authority of a charter city to adopt ordinances providing for a different method of levying assessments for similar or additional purposes from those set forth in this part. A property and business improvement district created pursuant to this part is expressly exempt from the provisions of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 (Division 4 (commencing with Section 2800)).

36604. This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. Assessments levied under this part are not special taxes.

Article 2. Definitions

36605. "Advisory board" means the advisory board or commission appointed by the city council pursuant to Section 36631.

36606. "Assessment" means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and promoting activities which will benefit the properties located within a property and business improvement district.

36607. "Business" means all types of businesses and includes financial institutions and professions.

36608. "City" means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which includes only cities, counties, or a city and county.

36609. "City council" means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

36610. "Improvement" means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

(a) Parking facilities.

(b) Benches, booths, kiosks, display cases, pedestrian shelters and signs.

(c) Trash receptacles and public restrooms.

(d) Lighting and heating facilities.

(e) Decorations.

(f) Parks.

(g) Fountains.

(h) Planting areas.

(i) Closing, opening, widening, or narrowing of existing streets.

(j) Facilities or equipment, or both, to enhance security of persons and property within the area.

(k) Ramps, sidewalks, plazas, and pedestrian malls.

(*l*) Rehabilitation or removal of existing structures.

36611. "Property and business improvement district," or "district," means a property and business improvement district established pursuant to this part.

36612. "Property" means real property situated within a district.

36613. "Activities" means, but is not limited to, all of the following:

(a) Promotion of public events which benefit businesses or real property in the district.

(b) Furnishing of music in any public place within the district.

(c) Promotion of tourism within the district.

(d) Marketing and economic development, including retail retention and recruitment.

(e) Providing security, sanitation, graffiti removal, street and sidewalk cleaning, and other municipal services supplemental to those normally provided by the municipality.

(f) Activities which benefit businesses and real property located in the district.

36614. "Management district plan" or "plan" means a proposal as defined in Section 36622.

36615. "Property owner" or "owner" means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of land by the city council. The city council has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this part. A public agency is not a property owner of land for purposes of this part without the express consent of the agency.

36616. "Tenant" means an occupant pursuant to a lease of commercial space or a dwelling unit, other than an owner.

Article 3. Prior Law

36617. This part provides an alternative method of financing certain improvements and activities. The provisions of this part shall not affect or limit any other provisions of law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. Every improvement area established pursuant to the Parking and Business Improvement Area Law of 1989 (Part 6 (commencing with Section 36500) of this division) is valid and effective and is unaffected by this part.

CHAPTER 2. ESTABLISHMENT

36620. A property and business improvement district may be established as provided in this chapter.

36620.5. A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

36621. Upon the written petition, signed and acknowledged, of the property owners in the proposed district who will pay more than 50 percent of the assessments proposed to be levied, the city council may initiate proceedings to form a district by the adoption of a resolution expressing its intention to form a district. The amount of assessment attributable to property owned by the same property owner which is in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in determining whether the petition is signed by property owners who

will pay more than 50 percent of the total amount of assessments proposed to be levied. The petition of property owners shall include the management district plan. The resolution of intention shall contain all of the following:

(a) The management district plan.

(b) A time and place for a public hearing on the establishment of the property and business improvement district and the levy of assessments, which shall not be held more than 60 days after the adoption of the resolution of intention.

36622. The management district plan shall contain all of the following:

(a) A map of the district in sufficient detail to locate each parcel of property within the district.

(b) The name of the proposed district.

(c) A description of the boundaries of the district, including the boundaries of any benefit zones, proposed for establishment or extension in a manner sufficient to identify the lands included. Under no circumstances shall the boundaries of a proposed district overlap with the boundaries of another existing district created pursuant to this part. Nothing in this part prohibits the boundaries of a district created pursuant to this part to overlap with other assessment districts established pursuant to other provisions of law including, but not limited to, the Parking and Business Improvement Area Law of 1989.

(d) The improvements and activities proposed for each year of operation of the district and the maximum cost thereof.

(e) The total annual amount proposed to be expended for improvements, maintenance and operations in each year of operation of the district.

(f) The proposed source or sources of financing including the proposed method and basis of levying the assessment in sufficient detail to allow each property owner to calculate the amount of the assessment to be levied against his of her property.

(g) The time and manner of collecting the assessments.

(h) The specific number of years, to a maximum of five, in which assessments will be levied. The management district plan may set forth specific increases in assessments for each year of operation of the district.

(i) The proposed time for implementation and completion of the management district plan.

(j) Any proposed rules and regulations to be applicable to the district.

(k) A list, by assessor's parcel number, of the properties to be benefited, and a statement of the method or methods by which the expenses of a district will be imposed upon benefited real property, in proportion to the benefit received by the property, to defray the cost thereof, including operation and maintenance. The plan may provide that all or any class or category of real property which is exempt by law from real property taxation may nevertheless be

included within the boundaries of the district but shall not be subject to the assessment.

(*l*) Any other item or matter required to be incorporated therein by the city council.

36623. If a city council proposes to levy a new or increased benefit assessment, notice shall be given pursuant to Section 54954.6 of the Government Code. In addition, the city council shall publish the resolution of intention in a newspaper of general circulation in the city once, at least seven days before the public meeting, and shall mail the resolution of intention by first-class mail to each property owner in the district and to each local chamber of commerce and business organization known by the city council to be located within the proposed district not later than 10 days before the public meeting. Notice of all other public meetings and public hearings shall comply with both the following:

(a) The resolution of intention shall be published in a newspaper of general circulation in the city once, at least seven days before the public meeting; and

(b) A complete copy of the resolution of intention shall be mailed by first-class mail to each property owner in the district and each local chamber of commerce and business organization known by the city council to be located within the proposed district no later than 10 days before the public meeting.

36624. (a) At the public hearing, the city council shall hear and consider all protests against the establishment of the district, the extent of the district, or the furnishing of specified types of improvements or activities within the district. A protest may be made orally or in writing by any interested person. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made.

(b) Every written protest shall be filed with the clerk no later than thirty days after the resolution of preliminary adoption adopted pursuant to Section 36627. The city council may waive any irregularity in the form or content of any written protest and may correct minor defects in the proceedings. A protest may be withdrawn in writing at any time before thirty days after the conclusion of the last day of public hearing.

(c) Each written protest shall contain a description of the property in which the person subscribing the protest is interested sufficient to identify the property. A written protest which does not comply with this section shall not be counted in determining a majority protest.

36625. (a) If written protests are received from the owners of real property in the district who will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than 50 percent, no further proceedings to create the specified property and business improvement district or to levy the proposed assessment, as

contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council. If the city council finds a majority protest in connection with a proposed modification pursuant to Section 36640 or 36642, then no further proceedings to establish the same or substantially similar modifications shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(b) If the majority protest is only against the furnishing of a specified type or types of improvement or activity within the district, only those types of improvements or activities shall be eliminated.

36626. (a) At the conclusion of the public hearing to establish the district, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments. Proposed assessments may only be revised by reducing any or all of them. At the public hearing, the city council may only make changes in, to, or from, the boundaries of the proposed property and business improvement district that will exclude territory which will not benefit from the proposed improvements or activities. Any modifications, revisions, reductions, or changes to the proposed assessment district shall be reflected in the notice and map recorded pursuant to Section 36626.6.

(b) The city council shall not change the boundaries of the district to include any territory that will not, in its judgment, benefit by the improvement or activity. Any addition of territory to the proposed boundaries of the district may be made only upon notice to the owners of the property proposed to be added to the district, as provided in Section 36623, and upon a public hearing on the addition of territory, as provided in Section 36624.

36626.5. If the city council, following the public hearing, desires to establish the proposed property and business improvement district, and the city council has made changes pursuant to Section 36626, and the changes are not merely clerical changes or corrections, the city council shall adopt a resolution of preliminary adoption that shall contain all of the following:

(a) The management district plan.

(b) The number, date of adoption, and title of the resolution of intention.

(c) The time and place where the public hearing was held concerning the establishment of the district.

(d) A determination regarding any protests received.

(e) A statement that the properties in the district established by the resolution shall be subject to any amendments to this part.

(f) A statement that the improvements and activities to be provided in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing

concerning establishment of the district.

(g) A finding that the property within the business and improvement area will be benefited by the improvements and activities funded by the assessments proposed to be levied.

36626.6. Following adoption of the resolution, the clerk or secretary of the local agency shall record a notice and map describing the assessment district pursuant to Division 4.5 (commencing with Section 3100). All the provisions of that Division 4.5 apply to the assessment district.

36626.7. Not earlier than 30 days after the resolution of preliminary adoption, if the city council decides to establish the proposed property and business improvement district, and if there is not a majority protest as described in Section 36625, the city council shall adopt a resolution consistent with the resolution of preliminary adoption. The adoption of the resolution and recordation of the notice and map pursuant to Section 36626.6 shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan. The resolution shall contain all of the following:

(a) The management district plan.

(b) The number, date of adoption, and title of the resolution of intention and resolution of preliminary adoption.

(c) The time and place where the public hearing was held concerning the establishment of the district.

(d) A determination regarding any protests received.

(e) A statement that a property and business improvement district has been established.

(f) A statement that the properties in the district established by the resolution shall be subject to any amendments to this part.

(g) A statement that the improvements and activities to be provided in the district will be funded by the levy of the assessments. The revenue from the levy of assessments within a district shall not be used to provide improvements or activities outside the district or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the district.

(h) A finding that the property within the property and business improvement district will be benefited by the improvements and activities funded by the assessments proposed to be levied.

36627. If the city council, following the public hearing, desires to establish the proposed property and business improvement district, and the city council has not made changes pursuant to Section 36626, or has made merely clerical changes or corrections, the city council shall adopt a resolution establishing the district. The resolution shall contain all of the information specified in subdivisions (a) to (h), inclusive, of Section 36626.7, but need not contain information about the preliminary resolution if none has been adopted.

36628. The city council may establish one or more separate benefit zones within the district based upon the degree of benefit

derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone.

36629. All provisions of this part applicable to the establishment, modification, or disestablishment of a property and business improvement district apply to the establishment, modification, or disestablishment of benefit zones. The city council shall, to establish, modify, or disestablish a benefit zone, follow the procedure to establish, modify, or disestablish a parking and business improvement area.

36630. If a property and business improvement district expires due to the time limit set pursuant to subdivision (h) of Section 36622, a new management district plan may be created and a new district established pursuant to this part.

CHAPTER 3. ASSESSMENTS

36631. (a) Within 15 days of the receipt of the written petition described in Section 36621, the city council shall appoint an advisory board which shall make a recommendation to the city council on the expenditure of revenues derived from the levy of assessments pursuant to this part, on the classification of properties, as applicable, and on the method and basis of levying the assessments. The city council may designate existing advisory boards or commissions to serve as the advisory board for the district or may create a new advisory board for that purpose. At least one member of the advisory board shall be a business licensee within the district who is not also a property owner within the district.

(b) Any advisory board appointed by the city council pursuant to subdivision (a) shall comply with the provisions of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

36632. The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the resolution establishing the management district plan described in Section 36622. The assessments may be collected at the same time and in the same manner as for the ad valorem property tax, and may provide for the same lien priority and penalties for delinquent payment.

36633. (a) The advisory board shall cause to be prepared a report for each fiscal year for which assessments are to be levied and collected to pay the costs of the improvements and activities described in the report. The report may propose changes, including, but not limited to, the boundaries of the property and business improvement district or any benefit zones within the district, the basis and method of levying the assessments, and any changes in the classification of property, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the property and business improvement district by name, specify the

fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following information:

(1) Any proposed changes in the boundaries of the property and business improvement district or in any benefits zones within the district.

(2) The improvements and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements and the activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each real property owner to estimate the amount of the assessment to be levied against his or her property for that fiscal year.

(5) The amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the advisory board or may modify any particular contained in the report and approve it as modified. Any modification shall be made pursuant to Sections 36640 and 36641. The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments.

36634. (a) The assessments levied on real property pursuant to this part shall be levied on the basis of the estimated benefit to the real property within the property and business improvement district. The city council may classify properties for purposes of determining the benefit to property of the improvements and activities provided pursuant to this part.

(b) Properties in private residential use, or that are zoned for agricultural use, are conclusively presumed not to benefit from the improvements and service funded through these assessments, and shall not be subject to any assessment pursuant to this part.

36635. The validity of assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the ordinance levying the assessment is adopted pursuant to Section 36627. Any appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

36636. The city council may execute baseline service contracts that would establish levels of city services that would continue after a property and business improvement district has been formed.

CHAPTER 4. MODIFICATION OF BOUNDARIES, ASSESSMENTS, IMPROVEMENTS, OR ACTIVITIES

36640. The advisory board may, at any time, request that the city council modify the management district plan. Any modification of

the management district plan shall be made pursuant to this chapter.

36641. (a) Upon the written request of the advisory board, the city council may modify the management district plan by adopting a resolution after holding hearings on the proposed modification pursuant to Sections 36623, 36624, 36625, and 36626.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not more than 60 days after the adoption of the resolution of intention. Notice of the public hearing shall be as provided in Section 36623. The public hearing shall be conducted as provided in Sections 36624, 36625, and 36626.

36642. (a) The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. Notice of the public hearing and the proposed modifications shall be published as provided in Section 36623.

(b) The public hearing shall be conducted as provided in Sections 36624, 36625, and 36626.

36643. Any subsequent modification of the resolution shall be reflected in subsequent notices and maps recorded pursuant to Division 4.5 (commencing with Section 3100).

CHAPTER 5. DISESTABLISHMENT

36650. (a) Any district established or extended pursuant to the provisions of this part, where there is no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district, may be disestablished by resolution by the city council in either of the following circumstances:

(1) If the city council finds there has been misappropriation of funds, malfeasance, or a violation of law in connection with the management of the district, it shall notice a hearing on disestablishment. The notice and hearing shall be held pursuant to Sections 36623 and 36624.

(2) During the operation of the district, there shall be a 30-day period each year in which assessees may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners of real property in the area who pay 50 percent or more of the assessments levied, the city council shall pass a resolution of intention to disestablish the district. The city council shall notice a hearing on disestablishment. The notice and hearing shall be held pursuant to Sections 36623 and 36624.

(b) The city council shall adopt a resolution of intention to

disestablish the district prior to the public hearing required by this section. The resolution shall state the reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the property and business improvement district. The public hearing shall be held not less than 20 or more than 30 days after the adoption of the resolution of intention. Notice of the public hearing shall be published as provided in Section 36623.

36651. (a) Upon the disestablishment of a district, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be refunded to the owners of the property then located and operating within the district in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the district is disestablished.

(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund. Notice of the disestablishment of a district shall be published once in a newspaper of general circulation in the city, not later than 15 days after the ordinance disestablishing the district is adopted.

CHAPTER 898

An act to add Section 715.050 to, and to add and repeal Section 1167.2 of, the Code of Civil Procedure, relating to unlawful detainer.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) The landlord-tenant relationship is unique. Rent may not be accepted by the owner during the pendency of an unlawful detainer action without a potential waiver of all of the owner's rights under an eviction notice. Moreover, during the pendency of unlawful detainer proceedings (1) owners are not allowed to eliminate any services provided to the tenant with the intent to cause the tenant to vacate the premises, (2) owners are not excused from making continuing real property tax, mortgage, mortgage interest, utility, insurance or maintenance payments for the premises, and (3) owners are not allowed to retake possession by self-help.

(b) Millions of dollars are lost by owners of residential rental property on a recurring annual basis and added to the rent of rent-paying tenants as the result of uncollectible unlawful detainer judgments and the delays inherent in the state's unlawful detainer

system.

(c) Approximately 220,000 unlawful detainer cases are filed annually in the state, involving less than 5 percent of the state's rental units, costing millions of dollars in attorneys' fees and court costs, unnecessarily burdening court administration and taxpayers.

(d) It is the intent of the Legislature in enacting this prospective rent deposit pilot project is to mitigate the delays and losses in the current unlawful detainer process by requiring deposit with the court of unpaid prospective rent for the period from the date of the commencement of the unlawful detainer action to the date of the anticipated trial.

SEC. 2. Section 715.050 is added to the Code of Civil Procedure, to read:

715.050. Except with respect to enforcement of a judgment for money, a writ of possession issued pursuant to a judgment for possession in an unlawful detainer action shall be enforced pursuant to this chapter without delay, notwithstanding receipt of notice of the filing by the defendant of a bankruptcy proceeding.

This section does not apply to a writ of possession issued for possession of a mobilehome or manufactured home, as those terms are defined in subdivision (a) of Section 1161a, and does not apply to a writ of possession issued for possession of real property in a mobilehome park subject to the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), or to a manufactured housing community, as defined in Section 18801 of the Health and Safety Code.

SEC. 3. Section 1167.2 is added to the Code of Civil Procedure, to read:

1167.2. (a) (1) There is hereby established a pilot project in at least two courts selected by the Judicial Council subject to the approval of the affected courts and the board of supervisors of each county in which the court is located. The courts shall include the El Cajon Municipal Court and a municipal court in the County of Los Angeles subject to the approval of the affected courts and the board of supervisors of each county in which the court is located.

The pilot project shall be considered successful if delays and abuses in the unlawful detainer system are reduced, due process protections are maintained for all parties, significant administrative burdens are not imposed on the courts, and four of the five following minimal standards are met:

(A) A 50 percent reduction of time from filing an unlawful detainer action to regaining possession of property in cases in which a deposit demand is made as compared to cases where no deposit demand is made.

(B) No more than 5 percent of the unlawful detainer cases are appealed in which a demand for prospective rent is made.

(C) A 40 percent reduction in total administrative and judicial time for the courts when disposing of unlawful detainer actions in

which deposit demand is made as compared to cases in which no demand is made.

(D) No increase in costs to the courts in cases in which a deposit demand is made as compared to cases in which no deposit demand is made.

(E) Less than 1 percent of the unlawful detainer cases in which a deposit demand was made involved property subject to an outstanding violation.

(2) Criteria to be considered for determining the success of the pilot project shall include, but not be limited to, all of the following:

(A) The time for disposition of unlawful detainer cases using the pretrial rent deposit procedure as compared to cases under subdivision 2 of Section 1161 from previous years for which records are available and other unlawful detainer cases in the same time period, in which a deposit is not demanded.

(B) The percentage of hearings that are contested as compared to failures of parties to appear at the hearing, the number of deposits ordered to be made after a hearing, the number of deposits actually made, and the number of occasions the court found a substantial conflict as to material fact or facts.

(C) The effect of the procedure on the ability of the parties to prepare and present a case at the hearing.

(D) Analysis of compliance with subdivision (d) using random samples that are sufficient to produce statistically valid data.

(E) Assessment by the courts as to the efficiency of the procedure, and whether there was an overall increase or decrease in the administrative burden of dealing with unlawful detainer cases.

Each court participating in the pilot project shall develop procedures to survey participants in the process and to gather data on its experience with the process. Survey participants shall include, but not be limited to, members of the judiciary, court administration, court clerks, counsel for plaintiffs and defendants, landlords, tenants, sheriffs, and marshals.

The presiding judges of participating courts shall report on the success of the pilot project to the Judicial Council on or before September 30, 1997, and the Judicial Council shall report to the Legislature on or before December 31, 1997.

(b) (1) In any action for unlawful detainer brought under subdivision (2) of Section 1161, the plaintiff may make a demand for a pretrial prospective rent deposit, provided the plaintiff has alleged in the body of the unlawful detainer complaint that no citation of a type described in subdivision (d) is outstanding as of the date the complaint is filed. The demand shall be made in the body of the unlawful detainer complaint, on the first page thereof immediately under the case number, and on the summons issued by the court.

(2) The summons and complaint shall be accompanied by a reply form. The reply form shall be prepared by the courts participating in the pilot project in consultation with each other to ensure consistency. The purpose of the form is to allow the defendant to

advise the court and the plaintiff that the defendant denies the allegations of the unlawful detainer complaint and intends to appear and defend the action. The information to be contained in the form shall include, but not be limited to, the following:

(A) A statement that in order for the defendant to protect his or her rights, the form should be completed and returned to the court immediately, but in no event later than five days from receipt of the summons and complaint. Delivery to the court shall be by personal delivery or by registered or certified mail, return receipt requested, and postmarked within five days from receipt of the summons and complaint.

(B) A statement that failure to return the form to the court in the time and manner prescribed herein shall require the defendant to deposit with the court the prospective rent as defined in subdivision (e) by the date of the hearing in order to preserve the right to have a trial of this matter.

(C) A statement that if the defendant does not return the form to the court as prescribed herein and subsequently fails to deposit the amount of prospective rent as defined in subdivision (e) up to and including the date of the hearing, the court shall order judgment for possession of the premises to be entered in favor of the plaintiff at the pretrial hearing.

(3) Upon the filing of the proof of service of the summons and complaint for unlawful detainer containing a demand for a pretrial prospective rent deposit, the clerk of the court shall set a pretrial hearing date no less than eight nor more than 13 days from the filing of the proof of service, and give notice of that date to all parties by first-class mail if the plaintiff pays the fee required by Section 72055 of the Government Code, plus an additional sum in an amount set by the court to cover actual costs of the pilot project, including the costs of the report required by this section. The proceeds from this additional fee shall be deposited with the county treasurer and, upon appropriation, be available solely to the court and the county in which the court is located and shall be used exclusively for the support of the pilot project. Participating courts shall report to the Judicial Council on the actual costs associated with the pilot project by March 1, 1996, and make any necessary adjustments to the fees to reflect the actual costs to the court and to the county for the provision of the pilot project.

(c) (1) At the pretrial hearing, the court shall determine whether a substantial conflict exists as to a material fact or facts relevant to the unlawful detainer for purposes of requiring the defendant to deposit with the clerk of the court prospective rent as defined in subdivision (e) as a condition of continuing to trial. If at the pretrial hearing the court determines, based upon the written declarations or oral testimony of the parties, that (A) the plaintiff is the landlord of the premises, the defendant failed to pay contract rent, the defendant was properly served with a three-day notice, and the defendant failed to tender the rent or quit the premises, and (B) no

substantial conflict exists as to a material fact or facts relevant to the unlawful detainer after considering any written or oral answer to the unlawful detainer complaint made by the defendant and any and all affirmative defenses offered by the defendant, and considering any oral testimony and written declarations presented by all of the parties, then the court shall have the discretion to order the defendant to deposit, with the clerk of the court, prospective rent as defined in subdivision (e). If the court orders a deposit of prospective rent and if the defendant fails to make such deposit within two court days from the date of the hearing, judgment for the plaintiff for possession of the premises shall be entered and a writ of possession for the premises shall be issued forthwith. If the defendant has not returned the reply form as described in paragraph (2) of subdivision (b) in the time and manner required, any deposit of prospective rent ordered by the court shall be made by the date of the hearing. If a defendant has not returned the reply form and then fails to deposit the prospective rent on the day of the hearing, judgment for the plaintiff for possession of the premises shall be entered and a writ of possession shall be issued forthwith. Upon entry of judgment for possession of the premises for the plaintiff pursuant to this subdivision, the court shall dismiss any claim for money relief without prejudice.

(2) For purposes of the pretrial hearing held pursuant to paragraph (1), the parties shall have the right to offer declarations, affidavits, and documentary evidence in addition to oral testimony of the parties, but no witnesses other than the parties may be called to testify. The court shall consult the parties to ascertain whether there is a substantial conflict as to a material fact or facts relevant to the unlawful detainer. The pretrial hearing of the case shall be informal, the object being to dispense justice promptly, fairly, and inexpensively. Except as provided in paragraph (3), for the purposes of the pilot project in Los Angeles County, no attorney may take part in the conduct of the pretrial hearing unless the attorney is appearing to maintain an action (A) by or against himself or herself, (B) by or against a partnership in which he or she is a general partner and in which all the partners are attorneys, or (C) by a corporation. If an attorney appears at the pretrial hearing to maintain an action as authorized by this paragraph, an attorney may appear for the opposing party in this action.

(3) Notwithstanding whether the defendant has returned the reply form pursuant to paragraph (2) of subdivision (b), a defendant may respond to the summons and complaint with an oral answer at the pretrial hearing or by written answer, motion, or demurrer. An oral answer shall, at the discretion of the court, be reduced to a writing by the court clerk, recorded electronically, or recorded by a court reporter. The court, in issuing its decision, shall make findings as to the matters specified in paragraph (1) of subdivision (c), including any defenses. The decision and findings shall be reduced to a writing. If the defendant responds to the unlawful detainer by

demurrer or motion, any such motion or demurrer, which shall be filed and served pursuant to Sections 1167 and 1167.3 of the Code of Civil Procedure, shall be heard and decided at the pretrial hearing held pursuant to this section. Notwithstanding paragraph (2) of subdivision (c), in all counties attorneys may appear for parties prosecuting or contesting a demurrer or motion. Notwithstanding Section 1005, papers opposing the defendant's motion or demurrer may be filed and personally served no later than one day prior to the day appointed for the hearing. If the defendant fails to respond to the unlawful detainer by written answer, motion, demurrer, or oral answer at the pretrial hearing, the court shall order judgment for possession of the premises to be entered in favor of the plaintiff forthwith at the pretrial hearing.

(d) No deposit of prospective rent as defined in this section shall be required if the defendant has paid, or deposited with the court, all rent through the month in which the action is filed. No deposit of rent pursuant to this section shall be required if the action involves premises as to which, as of the date the complaint was filed, there was an outstanding citation issued by a state or local government agency for violations of law pertaining to health, safety, housing, building, or fire standards.

(e) "Prospective rent," for purposes of this section, means up to 15 days' prospective rent not to exceed five hundred dollars ($500). The prospective rent shall be calculated on a prorated basis utilizing a 30-day rental period and the lowest monthly rent charged for the premises during the prior six months of the defendant's occupancy. Any deposit made by the defendant pursuant to this section shall be deposited with the clerk, by cash, cashier's check, or money order made payable to the clerk. Receipt of the deposit shall be acknowledged in writing and deposited and retained by the clerk pursuant to Section 24353 of the Government Code until further order of the court. The receipt and amount of a deposit of prospective rent shall be included in the order of the court at the conclusion of the pretrial hearing.

(f) If at trial the court determines that a breach of the warranty of habitability has occurred, which is not caused by the defendant, or his or her guests or invitees, sufficient to diminish the value of the premises in an amount greater than 60 percent of the contract rent, and that the defendant had given the owner notice to repair or eliminate the breach, the court shall order the entire amount of prospective rent deposited by the defendant pursuant to this section returned to the defendant. In this case, the obligation of payment of past rent for the period covered by the eviction notice shall be extinguished. In order to remain in the premises, the defendant shall pay the reduced rent from the time of trial until the defect is cured. The rights and remedies in this paragraph are in addition to any other rights and remedies relating to the habitability of dwelling units.

(g) Notwithstanding paragraph (1) of subdivision (c), any deposit

made by the defendant pursuant to this section shall be awarded to the party entitled thereto by the trial court and the defendant shall be given credit to the extent of the deposit against any money judgment ordered against the defendant in a subsequent action.

(h) This section does not apply to actions for possession of a mobilehome or manufactured home, as those terms are defined in subdivision (a) of Section 1161a, and does not apply to actions for possession of real property in a mobilehome park subject to the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), or to a manufactured housing community, as defined in Section 18801 of the Health and Safety Code.

(i) Section 473 shall apply to this section.

(j) This section shall become operative on July 1, 1995. This section shall become inoperative on July 1, 1998, and shall be repealed on January 1, 1999, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

SEC. 4. The Judicial Council shall adopt forms to be used for preparing the declarations of the plaintiff and defendant at the hearing held under paragraph (1) of subdivision (c) of Section 1167.2 of the Code of Civil Procedure and shall also prepare a form of summons for this type of unlawful detainer action. Failure to adopt the forms shall not prevent the implementation of that section.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 899

An act to amend Section 1626 of the Health and Safety Code, relating to blood products.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1626 of the Health and Safety Code is amended to read:

1626. (a) It is the intent of the Legislature that all health care providers who acquire blood platelets from persons engaged in the production of blood platelets take appropriate steps to secure blood platelets collected through the hemapheresis process from sources

that procure blood from unpaid, volunteer donors to reduce or eliminate acquisition from paid donors. This subdivision shall not be interpreted to imply there is any difference in the safety or quality of blood platelets collected through the hemapheresis process from paid donors as compared to the safety or quality of blood platelets collected through the hemapheresis process from volunteer donors. However, nothing in this subdivision shall be interpreted as a sanctioning of the payment for blood components, other than apheresis-derived platelets, given that previous studies have demonstrated that whole blood and its derivatives obtained from paid donors are not as safe as that obtained from volunteers.

Recognizing that those blood banks currently acquiring blood platelets from compensated donors are serving an important role in meeting the demand for platelets, the Legislature intends to provide those blood banks with time to implement volunteer donor systems, as defined by the American Association of Blood Banks and the federal Food and Drug Administration. During the period set forth in subdivision (d), the Legislature intends to monitor the implementation of volunteer systems and the impact on meeting the demand for platelets. It is the intent of the Legislature that a meaningful increase in the number and percentage of volunteer donors be reflected with each report described in subdivision (f).

(b) Except as provided in subdivisions (c) and (d), on or after January 1, 1987, it shall be unlawful, in any transfusion of blood, to use any blood that was obtained from a paid donor.

(c) Subdivision (b) shall not be applicable to any transfusion of blood that was obtained from a paid donor if the physician and surgeon performing the transfusion has determined, taking into consideration the condition of the patient who is the recipient of the transfusion, that other blood of a type compatible with the blood type of the patient cannot reasonably be obtained for the transfusion.

(d) After March 15, 1987, and on or before December 31, 2001, subdivision (b) shall not apply to blood platelets secured from paid donors through the hemapheresis process if all of the following requirements are satisfied:

(1) The blood platelets are ordered by a doctor holding a valid California physician's and surgeon's certificate.

(2) The blood platelets are secured from a single donor and are sufficient to constitute a complete platelet transfusion.

(3) The donor's identification number is recorded on the platelet label and is kept in the records of the entity providing the blood platelets for a minimum of five years.

(4) The donor has been examined by a doctor holding a valid California physician's and surgeon's certificate, and a repeat donor is reexamined at least annually.

(5) The transfusion is performed in a general acute care hospital.

(6) The blood platelets are processed according to standards issued by the American Association of Blood Banks, pursuant to Section 1602.1.

(7) The donor and blood are tested in accordance with regulations issued by the State Department of Health Services.

(8) The entity providing the blood platelets is licensed by the State Department of Health Services.

(9) The information that the donor of the blood platelets was compensated is printed on the label in accordance with Section 1603.5.

(e) The Assembly Office of Research, in consultation with the department and the Legislative Analyst's office, shall conduct a national review of published materials regarding the benefits and problems of using paid donors for hemapheresis. The results of the review shall be reported to the Legislature on or before June 30, 1993.

(f) (1) Commencing in January 1996, and every year thereafter, those blood banks acquiring blood platelets from paid donors shall report all of the following information to the State Department of Health Services:

(A) The specific actions undertaken to obtain blood platelets from volunteer donors.

(B) The percentage of compensated and volunteer donors from whom blood platelets were obtained during the period covered by the report.

(C) The number of repeat donors making platelet donations during the period covered by the report.

(2) The department shall transmit the information received pursuant to this subdivision to the Senate Health and Human Services Committee and the Assembly Health Committee for review by those committees consistent with subdivision (a).

(3) Paragraph (1) of this subdivision is not intended to require the disclosure and reporting of information that would put the blood banks at a competitive disadvantage in attracting volunteer donors.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 900

An act to amend Sections 360, 361.5, 366.3, and 388 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 360 of the Welfare and Institutions Code is amended to read:

360. After receiving and considering the evidence on the proper disposition of the case, the juvenile court may enter judgment as follows:

(a) Notwithstanding any other provision of law, if the court finds that the minor is a person described by Section 300 and the parent has advised the court that the parent is not interested in family maintenance or family reunification services, it may, in addition to or in lieu of adjudicating the minor a dependent child of the court, order a legal guardianship, appoint a legal guardian, and issue letters of guardianship, if the court determines that a guardianship is in the best interest of the minor, provided the parent and the minor agree to the guardianship, unless the minor's age or physical, emotional, or mental condition prevents the minor's meaningful response. The court shall advise the parent and the minor that no reunification services will be provided as a result of the establishment of a guardianship. The proceeding for the appointment of a guardian shall be in the juvenile court.

Any application for termination of guardianship shall be filed in juvenile court in a form as may be developed by the Judicial Council pursuant to Section 68511 of the Government Code. Section 388 shall apply to this order of guardianship.

No person shall be appointed a legal guardian under this section until an assessment as specified in subdivision (g) of Section 361.5 is read and considered by the court and reflected in the minutes of the court. The assessment shall include the following:

(1) Current search efforts for, and notification of, a noncustodial parent in the manner provided in Section 337.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the filing of the petition.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective guardian, particularly the caretaker, to include a social history including a screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of guardianship.

(5) The relationship of the minor to any identified prospective guardian, the duration and nature of the relationship, the motivation for seeking guardianship, and a statement from the minor concerning the guardianship, unless the minor's age or physical, emotional, or other condition precludes the minor's meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the minor would be adopted if parental rights were terminated.

The person responsible for preparing the assessment may be called and examined by any party to the guardianship proceeding.

(b) If the court finds that the minor is a person described by Section 300, it may, without adjudicating the minor a dependent child of the court, order that services be provided to keep the family together and place the minor and the minor's parent or guardian under the supervision of the probation officer for a time period consistent with Section 301.

(c) If the family subsequently is unable or unwilling to cooperate with the services being provided, the probation officer may file a petition with the juvenile court pursuant to Section 332 alleging that a previous petition has been sustained and that disposition pursuant to subdivision (b) has been ineffective in ameliorating the situation requiring the child welfare services. Upon hearing the petition, the court shall order either that the petition shall be dismissed or that a new disposition hearing shall be held pursuant to subdivision (d).

(d) If the court finds that the minor is a person described by Section 300, it may order and adjudge the minor to be a dependent child of the court.

SEC. 2. Section 361.5 of the Welfare and Institutions Code, as amended by Chapter 57 of the Statutes of 1994, is amended to read:

361.5. (a) Except as provided in subdivision (b) or upon the establishment of an order of guardianship pursuant to Section 360, whenever a minor is removed from a parent's or guardian's custody, the juvenile court shall order the probation officer to provide child welfare services to the minor and the minor's parents or guardians for the purpose of facilitating reunification of the family within a maximum time period not to exceed 12 months. The court also shall make findings pursuant to subdivision (a) of Section 366. When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the child. Services may be extended up to an additional six months if it can be shown that the objectives of the service plan can be achieved within the extended time period. Physical custody of the minor by the parents or guardians during the 18-month period shall not serve to interrupt the running of the period. If at the end of the 18-month period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child's

desire into account in devising a permanency plan.

Except in cases where, pursuant to subdivision (b), the court does not order reunification services, the court shall inform the parent or parents of Section 366.25 or 366.26 and shall specify that the parent's or parents' parental rights may be terminated.

(b) Reunification services need not be provided to a parent or guardian described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

(1) That the whereabouts of the parent or guardian is unknown. A finding pursuant to this paragraph shall be supported by an affidavit or by proof that a reasonably diligent search has failed to locate the parent or guardian. The posting or publication of notices is not required in that search.

(2) That the parent or guardian is suffering from a mental disability that is described in Chapter 2 (commencing with Section 7820) of Part 4 of Division 12 of the Family Code and that renders him or her incapable of utilizing those services.

(3) That the minor had been previously adjudicated a dependent pursuant to any subdivision of Section 300 as a result of physical or sexual abuse, that following that adjudication the minor had been removed from the custody of his or her parent or guardian pursuant to Section 361, that the minor has been returned to the custody of the parent or parents or guardian or guardians from whom the minor had been taken originally, and that the minor is being removed pursuant to Section 361, due to additional physical or sexual abuse. However, this section is not applicable if the jurisdiction of the juvenile court has been dismissed prior to the additional abuse.

(4) That the parent or guardian of the minor has been convicted of causing the death of another child through abuse or neglect.

(5) That the minor was brought within the jurisdiction of the court under subdivision (e) of Section 300 because of the conduct of that parent or guardian.

(6) That the minor has been adjudicated a dependent pursuant to any subdivision of Section 300 as a result of severe sexual abuse or the infliction of severe physical harm by a parent or guardian, as defined in this subdivision, and the court makes a factual finding that it would not benefit the child to pursue reunification services with the offending parent or guardian.

A finding of severe sexual abuse, for the purposes of this subdivision, may be based on, but is not limited to, sexual intercourse or stimulation involving genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between the parent or guardian and the child, or between the child and another person or animal with the actual or implied consent of, and for the financial gain or other advantage of, the parent or guardian; or the penetration or manipulation of the child's genital organs or rectum by any animate or inanimate object, for the sexual gratification of the parent or guardian, or for the sexual gratification of another person with the actual or implied consent of, and for the financial gain or other

advantage of, the parent or guardian.

A finding of the infliction of severe physical harm, for the purposes of this subdivision, may be based on, but is not limited to, deliberate and serious injury inflicted to or on a child's body by an act or omission of the parent or guardian, or of another individual or animal with the consent of the parent or guardian; deliberate and torturous confinement of the child in a closed space; or any other torturous act or omission which would be reasonably understood to cause serious emotional damage.

(7) That the minor was conceived by means of the commission of an offense listed in Section 288 or 288.5 of the Penal Code, or by an act committed outside this state which if committed in this state would constitute such an offense. This paragraph only applies to the parent who perpetrated the offense or act.

(c) In deciding whether to order reunification in any case in which this section applies, the court shall hold a dispositional hearing. The probation officer shall prepare a report which discusses whether reunification services shall be provided. When it is alleged, pursuant to paragraph (2) of subdivision (b), that the parent is incapable of utilizing services due to mental disability, the court shall order reunification services unless competent evidence from mental health professionals establishes that, even with the provision of services, the parent is unlikely to be capable of adequately caring for the child within 12 months.

When paragraph (3), (4), or (5), inclusive, of subdivision (b) is applicable, the court shall not order reunification unless it finds that, based on competent testimony, those services are likely to prevent reabuse or continued neglect of the child or that failure to try reunification will be detrimental to the child because the child is closely and positively attached to that parent. The probation officer shall investigate the circumstances leading to the removal of the minor and advise the court whether there are circumstances which indicate that reunification is likely to be successful or unsuccessful and whether failure to order reunification is likely to be detrimental to the child.

The failure of the parent to respond to previous services, the fact that the child was abused while the parent was under the influence of drugs or alcohol, a past history of violent behavior, or testimony by a competent professional that the parent's behavior is unlikely to be changed by services are among the factors indicating that reunification services are unlikely to be successful. The fact that a parent or guardian is no longer living with an individual who severely abused the minor may be considered in deciding that reunification services are likely to be successful, provided that the court shall consider any pattern of behavior on the part of the parent that has exposed the child to repeated abuse.

The court shall not order reunification for a parent who perpetrated an offense or act specified in paragraph (7) of subdivision (b) unless the court finds, by clear and convincing

evidence, that reunification is in the best interest of the minor.

(d) If reunification services are not ordered pursuant to paragraph (1) of subdivision (b) and the whereabouts of a parent become known within six months of the out-of-home placement of the minor, the court shall order the probation officer to provide family reunification services in accordance with this subdivision. However, the time limits specified in subdivision (a) and Section 366.25 are not tolled by the parent's absence.

(e) (1) If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the minor. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the nature of the treatment, the nature of crime or illness, the degree of detriment to the child if services are not offered and, for minors 10 years of age or older, the minor's attitude toward the implementation of family reunification services, and any other appropriate factors. Reunification services are subject to the 18-month limitation imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

(A) Maintaining contact between parent and child through collect phone calls.

(B) Transportation services, where appropriate.

(C) Visitation services, where appropriate.

(D) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.

An incarcerated parent may be required to attend counseling, parenting classes, or vocational training programs as part of the service plan if these programs are available.

(2) The presiding judge of the juvenile court of each county may convene representatives of the county welfare department, the sheriff's department, and other appropriate entities for the purpose of developing and entering into protocols for ensuring the notification, transportation, and presence of an incarcerated or institutionalized parent at all court hearings involving proceedings affecting the minor pursuant to Section 2625 of the Penal Code.

(3) Notwithstanding any other provision of law, if the incarcerated parent is a woman seeking to participate in the community treatment program operated by the Department of Corrections pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, the court shall determine whether the parent's participation in a program is in the child's best interest and whether it is suitable to meet the needs of the parent and child.

(f) If a court, pursuant to paragraph (2), (3), (4), (5), (6), or (7) of subdivision (b) or paragraph (1) of subdivision (e), does not order reunification services, it shall conduct a hearing pursuant to Section 366.25 or 366.26 within 120 days of the dispositional hearing.

However, the court shall not schedule a hearing so long as the other parent is being provided reunification services pursuant to subdivision (a). The court may continue to permit the parent to visit the minor unless it finds that visitation would be detrimental to the minor.

(g) Whenever a court orders that a hearing shall be held pursuant to Section 366.25 or 366.26 it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor concerning placement and the adoption or guardianship, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

(h) In determining whether reunification services will benefit the child pursuant to paragraph (6) of subdivision (b), the court shall consider any information it deems relevant, including the following factors:

(1) The specific act or omission comprising the severe sexual abuse or the severe physical harm inflicted on the child.

(2) The circumstances under which the abuse or harm was inflicted on the child.

(3) The severity of the emotional trauma suffered by the child.

(4) Any history of abuse of other children by the offending parent or guardian.

(5) The likelihood that the child may be safely returned to the care of the offending parent or guardian within 18 months with no continuing supervision.

(6) Whether or not the child desires to be reunified with the offending parent or guardian.

(i) The court shall read into the record the basis for a finding of

severe sexual abuse or the infliction of severe physical harm under paragraph (6) of subdivision (b), and shall also specify the factual findings used to determine that the provision of reunification services to the offending parent or guardian would not benefit the child.

SEC. 3. Section 366.3 of the Welfare and Institutions Code is amended to read:

366.3. (a) If a juvenile court orders a permanent plan of adoption or legal guardianship pursuant to Section 360, 366.25, or 366.26, the court shall retain jurisdiction over the minor until the minor is adopted or the legal guardianship is established. The status of the minor shall be reviewed every six months to ensure that the adoption or guardianship is completed as expeditiously as possible. When the adoption of the minor has been granted, the court shall terminate its jurisdiction over the minor. The court may continue jurisdiction over the minor as a dependent minor of the juvenile court following the establishment of a legal guardianship or may terminate its dependency jurisdiction and retain jurisdiction over the minor as a ward of the guardianship established pursuant to Section 360, 366.25, or 366.26 and as authorized by Section 366.4. Following a termination of parental rights the parent or parents shall not be a party to, or receive notice of, any subsequent proceedings regarding the minor.

(b) If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the minor.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a guardianship which has been granted pursuant to Section 360, 366.25, or 366.26 shall be held in the juvenile court, unless the termination is due to the emancipation or adoption of the minor. If the petition to terminate guardianship is granted, the juvenile court may resume dependency jurisdiction over the minor, and may order the county department of social services or welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination. If no dependency jurisdiction has attached, the probation officer shall make any investigation he or she deems necessary to determine whether the minor may be within the jurisdiction of the juvenile court, as provided in Section 328.

Unless the parental rights of the child's parent or parents have been terminated, they shall be notified that the guardianship has been revoked or terminated and shall be entitled to participate in the new permanency planning hearing. The court shall try to place the minor in another permanent placement. At the hearing, the parents may be considered as custodians but the minor shall not be

returned to the parent or parents unless they prove, by a preponderance of the evidence, that reunification is the best alternative for the minor. The court may, if it is in the interests of the minor, order that reunification services again be provided to the parent or parents.

(c) If the minor is in a placement other than a preadoptive home or the home of a legal guardian and jurisdiction has not been dismissed, the status of the minor shall be reviewed every six months. This review may be conducted by the court or an appropriate local agency; the court shall conduct the review upon the request of the minor's parents or guardian or of the minor and shall conduct the review 18 months after the hearing held pursuant to Section 366.26 and every 18 months thereafter. The reviewing body shall inquire about the progress being made to provide a permanent home for the minor and shall determine the appropriateness of the placement, the continuing appropriateness and extent of compliance with the permanent plan for the child, the extent of compliance with the case plan, and the adequacy of services provided to the child. The review shall also include a determination of the services needed to assist a child who is 16 years of age or older make the transition from foster care to independent living.

Each licensed foster family agency shall submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

Unless their parental rights have been permanently terminated, the parent or parents of the minor are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the interests of the minor, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the minor. In those cases, the court may order that further reunification services be provided to the parent or parents for a period not to exceed six months.

SEC. 4. Section 388 of the Welfare and Institutions Code is amended to read:

388. Any parent or other person having an interest in a child who is a dependent child of the juvenile court or the child himself through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court or in which a guardianship was ordered pursuant to Section 360 for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and, if made by a person other than the child, shall state the petitioner's relationship to or interest in the child and shall set forth in concise language any change of circumstance or new evidence which are alleged to require such

change of order or termination of jurisdiction.

If it appears that the best interests of the child may be promoted by the proposed change of order or termination of jurisdiction, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to such persons and by such means as prescribed by Section 386, and, in such instances as the means of giving notice is not prescribed by such sections, then by such means as the court prescribes.

CHAPTER 901

An act to amend Section 89001 of, and to amend, repeal, and add Section 89002 of, the Education Code, relating to the California State University, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. (a) The Legislature finds and declares that the Trustees of the California State University, in conjunction with several agencies of the United States, and with the support of the California Legislature and the Governor, have initiated efforts to acquire property at the site of Fort Ord in Monterey County. This military installation, which is scheduled to be downsized, provides a unique opportunity for the state to develop a model for defense conversion unlike any other to be found in the entire United States.

Further, the Legislature finds and declares that the availability of the land, infrastructure, and facilities, plus the federal government's commitment to help fund the capital conversion, provides the following:

(1) A strong incentive for the state to obtain the property and facilities for a campus of the California State University adjacent to a research center for the University of California, and other property that will be used by local community colleges and at least two independent higher education institutions.

(2) A strong incentive for the California State University, in collaboration with the other educational institutions and the California Postsecondary Education Commission, to design and develop (A) a new campus with modern technological capacity sufficient to deliver educational programs to California's students in the 21st century and (B) a collaborative and cooperative "educational park" to address a variety of educational needs and interests.

(3) A strong incentive for local communities to support the conversion from defense to education as a means of replacing the

economic activity that will be lost as the military operation at Fort Ord is reduced.

The Legislature further finds that the California Postsecondary Education Commission, pursuant to Section 66904 of the Education Code, has recommended approval of a new campus at Fort Ord.

Therefore, it is the intent of the Legislature in enacting this act that the Trustees of the California State University are requested to take all steps necessary and desirable to develop and open a campus of the California State University at Fort Ord, to be known as the California State University, Monterey Bay.

(b) In addition, it is the intent of the Legislature that the inclusion of Monterey County in Section 89001 of the Education Code does not commit the Legislature to a General Fund appropriation for the 1994–95 fiscal year for the California State University, Monterey Bay. Instead, funding for this new campus shall be deliberated and, if necessary, appropriated as part of the annual Budget Act process.

(c) It is also the specific intent of the Legislature that nothing in this act shall be interpreted as changing California State University's existing priorities or projected state funding for continued development and planned enrollment at the California State University, San Marcos, the California State University, Ventura, the California State University, Stanislaus, including the need to expand the Stockton Center, and other campuses that should continue development and expansion.

SEC. 2. Section 89001 of the Education Code, as amended by Section 3 of Chapter 1298 of the Statutes of 1993, is amended to read:

89001. The California State University includes the institutions for higher education whose locations are listed in this section.

(a) San Jose.
(b) San Francisco.
(c) Chico.
(d) Humboldt.
(e) San Diego.
(f) Fresno.
(g) California Polytechnic State University, San Luis Obispo.
(h) California State Polytechnic University, at or near the Cities of San Dimas and Pomona.
(i) Long Beach.
(j) Los Angeles.
(k) Sacramento.
(*l*) Hayward.
(m) San Fernando Valley.
(n) Fullerton.
(o) Stanislaus.
(p) Sonoma.
(q) San Bernardino.
(r) Dominguez Hills.
(s) Contra Costa.
(t) Kern.

(u) Redwood City.
(v) Ventura.
(w) San Marcos.
(x) Monterey County.

This section shall become inoperative on June 30, 1995, and, as of January 1, 1996, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1996, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 89001 of the Education Code, as added by Section 3.5 of Chapter 1298 of the Statutes of 1993, is amended to read:

89001. (a) The California State University includes the institutions for higher education whose locations or designations are listed in this section.

(1) San Jose.
(2) San Francisco.
(3) Chico.
(4) Humboldt.
(5) San Diego.
(6) Fresno.
(7) California Polytechnic State University, San Luis Obispo.
(8) California State Polytechnic University, Pomona.
(9) Long Beach.
(10) Los Angeles.
(11) Sacramento.
(12) Hayward.
(13) San Fernando Valley.
(14) Fullerton.
(15) Stanislaus.
(16) Sonoma.
(17) San Bernardino.
(18) Dominguez Hills.
(19) Contra Costa.
(20) Kern.
(21) Redwood City.
(22) Ventura.
(23) San Marcos.
(24) The California Maritime Academy, a specialized institution.
(25) Monterey County.

(b) This section shall become operative on July 1, 1995.

SEC. 4. Section 89002 of the Education Code is amended to read:

89002. The campuses authorized in subdivisions (s), (u), (v), and (x) of Section 89001 shall commence construction only upon resolution of the trustees, approved by the California Postsecondary Education Commission.

This section shall become inoperative on June 30, 1995, and, as of January 1, 1996, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1996, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 89002 is added to the Education Code, to read:

89002. The campuses authorized in paragraphs (19), (21), (22), and (25) of subdivision (a) of Section 89001 shall commence construction only upon resolution of the trustees, approved by the California Postsecondary Education Commission.

This section shall become operative on July 1, 1995.

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

The federal government intends to turn over certain property at Fort Ord in Monterey County to the State of California as early as April 1, 1994. It is, therefore, necessary to enact as soon as possible the statutory authorization for the Trustees of the California State University to designate the site at Fort Ord as a campus of the California State University, in order to facilitate the development and operation of the California State University, Monterey Bay within the timelines and parameters that may be established by the United States Government as a condition of the transfer of the property to the State of California.

CHAPTER 902

An act to add Article 12 (commencing with Section 429) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to health.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Article 12 (commencing with Section 429) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 12. Rural Health Care Transition Oversight

429. (a) The Office of Statewide Health Planning and Development, in conjunction with the State Department of Health Services, shall act as the coordinating agency to develop a strategic plan that would assist rural California to prepare for health care reform. The plan shall assist in the coordination and integration of all rural health care services on the birth to death continuum and serve as an infrastructure for rural communities to establish priorities and develop appropriate programs.

(b) The office shall designate representatives from provider groups including rural hospitals, clinics, physicians, other rural providers including psychologists, counties, beneficiaries, and other

entities directly affected by the plan. The office shall convene meetings with the objectives of doing all of the following:

(1) Assessing the current status of health care in rural communities.

(2) Assembling and reviewing data related to available programs and resources for rural California.

(3) Assembling and reviewing data related to other states' strategic plans for rural communities.

(4) Reviewing and integrating the office's rural work plan, as appropriate.

(5) Making assumptions about the future of health care and developing a strategic plan based on these assumptions.

(c) The rural health care strategic plan shall address all of the following:

(1) The special needs of the elderly and of ethnic populations.

(2) Elimination of barriers in planning and coordinating health services.

(3) The lack of primary and specialty providers.

(4) Access to emergency services.

(5) The role of new technologies, including, but not limited to, telemedicine.

CHAPTER 903

An act to amend Sections 6006.5, 6073, 6452, 6479.3, 6701, 6757, 6961, 7152, 7153.5, 8951, 30155, 30461, 43102, 45102, 50108.2, and 55022 of, to amend and renumber Section 43158 of, and to add Section 6487.05 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 6006.5 of the Revenue and Taxation Code is amended to read:

6006.5. "Occasional sale" includes all of the following:

(a) A sale of property not held or used by a seller in the course of activities for which he or she is required to hold a seller's permit or permits or would be required to hold a seller's permit or permits if the activities were conducted in this state, provided that the sale is not one of a series of sales sufficient in number, scope, and character to constitute an activity for which he or she is required to hold a seller's permit or would be required to hold a seller's permit if the activity were conducted in this state.

(b) Any transfer of all or substantially all the property held or used by a person in the course of those activities when after the transfer the real or ultimate ownership of the property is substantially similar

to that which existed before the transfer. For the purposes of this section, stockholders, bondholders, partners, or other persons holding an ownership interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of the corporation or other entity.

(c) A sale of property, other than hay, by a producer of hay, provided that the sale is not one of a series of sales sufficient in number, scope, or character to constitute an activity for which the producer would be required to hold a seller's permit if the producer were not also selling hay.

SEC. 2. Section 6073 of the Revenue and Taxation Code is amended to read:

6073. (a) (1) When the board determines it is necessary for the efficient administration of this part, the board may require the operator of a swap meet, flea market, or special event as a prerequisite to renting or leasing space on the premises owned or controlled by that operator to a person desiring to engage in or conduct business as a seller, to obtain written evidence that the seller is the holder of a valid seller's permit issued pursuant to Section 6067, or a written statement from the seller that he or she is not offering for sale any item that is taxable under this part or is otherwise not required to hold a valid seller's permit.

(2) In providing the board with documentation required by the board pursuant to paragraph (1), an operator of a swap meet, flea market, or special event may require each person desiring to engage in or conduct business as a seller at that swap meet, flea market, or special event to provide his or her driver's license number to the operator on a form authorized by the board or under Section 6073.1.

(b) At any time as the board may specify in a written notice, but in no case more than three times in a calendar year, the board may require an operator to submit to the board a list of vendors conducting business on their premises as a seller. Each listing shall be provided to the board within 30 days after the date of the board's notice. The list shall contain the name and seller's permit number for permitholders and the name, address, and driver's license number for vendors who do not have seller's permits. Records shall be retained to the same extent as all transactions involving sales or use tax liability as provided in Section 7053.

(c) "Swap meet, flea market, or special event," as used in this section, means an activity involving a series of sales sufficient in number, scope, and character to constitute a regular course of business, or any event at which two or more persons offer tangible personal property for sale or exchange and at which a fee is charged for the privilege of displaying the property for sale or exchange or at which a fee is charged to prospective buyers for admission to the area where the property is offered or displayed for sale or exchange.

(d) Any operator of a swap meet, flea market, or special event who fails or refuses to comply with this section is subject to a penalty not exceeding one thousand dollars ($1,000) for each offense.

SEC. 3. Section 6452 of the Revenue and Taxation Code is amended to read:

6452. (a) On or before the last day of the month following each quarterly period of three months, a return for the preceding quarterly period shall be filed with the board in the form as the board may prescribe.

(b) (1) For purposes of the sales tax, a return shall be filed by every seller and also by every person who is liable for the sales tax under this part. For purposes of the use tax, a return shall be filed by every retailer engaged in business in this state and by every person purchasing tangible personal property, the storage, use, or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. Returns shall be signed by the person required to file the return or by his or her duly authorized agent but need not be verified by oath. If a return is prepared by a paid preparer, that preparer shall enter his or her name, social security number or federal employee identification number, and business name and address in the space provided on the return. Any paid preparer who fails to provide the information specified by the preceding sentence shall be subject to a fifty dollar ($50) fine for each failure to provide that information.

(2) For purposes of paragraph (1), "paid preparer" means any person who for compensation prepares, or employs one or more persons to prepare, any sales and use tax return required to be filed under this part. For purposes of this paragraph, the preparation of a substantial portion of any sales and use tax return required to be filed under this part shall be considered the equivalent of preparing that return in its entirety. A person is not a "paid preparer" as defined in this paragraph solely by reason of doing any of the following:

(A) Furnishing typing, reproduction, or other mechanical assistance.

(B) Preparing in a fiduciary capacity a return for any other person.

(c) Any retailer or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor punishable as provided in Section 7153.

SEC. 4. Section 6479.3 of the Revenue and Taxation Code is amended to read:

6479.3. (a) Any person whose estimated tax liability under this part averages twenty thousand dollars ($20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the board. Any person who collects use tax on a voluntary basis is not required to remit amounts due by electronic funds transfer.

(b) Any person whose estimated tax liability under this part averages less than twenty thousand dollars ($20,000) per month or

any person who voluntarily collects use tax may elect to remit amounts due by electronic funds transfer with the approval of the board. The election shall be operative for a minimum of one year.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e) Any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(f) Any person who is required to remit taxes pursuant to this article, who fails to timely remit those taxes, and who is issued a deficiency determination pursuant to Section 6481 with respect to those taxes, shall, in addition to any other penalties imposed, pay a 10 percent penalty of the amount of those taxes.

(g) In determining whether a person's estimated tax liability averages twenty thousand dollars ($20,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.

(i) This section shall become operative on January 1, 1995.

SEC. 5. Section 6487.05 is added to the Revenue and Taxation Code, to read:

6487.05. (a) Notwithstanding Section 6487, the period during which a deficiency determination may be mailed to a qualifying retailer is limited to three years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined. For purposes of this section, a "qualifying retailer" is a retailer that meets all of the following conditions:

(1) The retailer is located outside this state, and has not previously registered with the board.

(2) The retailer is engaged in business in this state, as defined in

Section 6203.

(3) The retailer voluntarily registers with the board.

(4) The retailer has not been previously contacted by the board or its agents regarding the provisions of Section 6203.

(5) As determined by the board, the retailer's failure to file a return or failure to report or pay the tax or amount due required by law was due to reasonable cause and was not a result of negligence or intentional disregard of the law, or because of fraud or an intent to evade the provisions of this part.

(b) If the board or its designee finds that the retailer's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the retailer's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the retailer shall be relieved of the penalties imposed pursuant to this part. Any retailer seeking relief of penalty shall file a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 6. Section 6701 of the Revenue and Taxation Code is amended to read:

6701. The board, whenever it deems it necessary to ensure compliance with this part, may require any person subject thereto, to place with it any security that the board may determine. Any security in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions shall be held by the board in trust to be used solely in the manner provided by this section and Section 6815. The amount of the security shall be fixed by the board but, except as noted below, shall not be greater than twice the estimated average liability of persons filing returns for quarterly periods or three times the estimated average liability of persons required to file returns for monthly periods, determined in the manner that the board deems proper, or ten thousand dollars ($10,000), whichever amount is the lesser. In case of a person who, pursuant to Section 6070 of this part, has been given notice of hearing to show cause why his or her permit or permits should not be revoked, or a person whose permit or permits has been revoked or suspended, the amount of the security shall not be greater than three times the average liability of persons filing returns for quarterly periods or five times the average liability of persons required to file returns for monthly periods, or ten thousand dollars ($10,000), whichever amount is the lesser. The limitations herein provided apply regardless of the type of security placed with the board. The amount of the security may be increased or decreased by the board subject to the limitations herein provided. The board may sell the security at public auction if it becomes necessary to do so in order to recover any tax or any amount required to be collected, interest, or penalty due. Notice of the sale may be served upon the person who placed the security personally or by mail; if by mail, service shall be made in the manner prescribed for service of a notice of a deficiency determination and shall be addressed to the person at his

or her address as it appears in the records of the board. Upon any sale any surplus above the amounts due shall be returned to the person who placed the security.

SEC. 7. Section 6757 of the Revenue and Taxation Code is amended to read:

6757. (a) If any person fails to pay any amount imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. The lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the board before the date the return is delinquent, the date the return would have been delinquent;

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the board;

(3) For amounts determined under Section 6536 (pertaining to jeopardy assessments), the date the notice of the board's finding is mailed or issued;

(4) For all other amounts, the date the assessment is final.

(c) The lien provided by this section shall not arise during any period that Section 362 of the United States Bankruptcy Code applies to the person against whom the lien would otherwise apply.

SEC. 8. Section 6961 of the Revenue and Taxation Code is amended to read:

6961. (a) The Controller may recover any refund or part thereof that is erroneously made and any credit or part thereof that is erroneously allowed in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California.

(b) As an alternative to subdivision (a), the board may recover any refund or part thereof that is erroneously made and any credit or part thereof that is erroneously allowed. In recovering any erroneous refunds or credits, the board, in its discretion, may issue a deficiency determination in accordance with Article 2 (commencing with Section 6481) or Article 4 (commencing with Section 6536) of Chapter 5. Except in the case of fraud, the determination shall be made within three years from the last day of the month following the quarterly period in which the board made its certification to the Controller that the amount collected was in excess of the amount legally due.

SEC. 9. Section 7152 of the Revenue and Taxation Code is amended to read:

7152. (a) Any person required to make, render, sign, or verify any report who makes any false or fraudulent return, with intent to defeat or evade the determination of an amount due required by law to be made is guilty of a misdemeanor punishable as provided in

Section 7153.

(b) Any person who willfully aids or assists in, or procures, counsels, or advises in, the preparation or presentation, in connection with any matter arising under this part, of a return, affidavit, claim, or other document that is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, is guilty of a misdemeanor punishable as provided in Section 7153.

SEC. 10. Section 7153.5 of the Revenue and Taxation Code is amended to read:

7153.5. Notwithstanding any other provision of this part, any person who violates this part with intent to defeat or evade the reporting, assessment, or payment of a tax or an amount due required by law to be made is guilty of a felony when the amount of unreported tax liability aggregates twenty-five thousand dollars ($25,000) or more in any 12-consecutive-month period. Each offense shall be punished by a fine of not less than five thousand dollars ($5,000) and not more than twenty thousand dollars ($20,000), or imprisonment for 16 months, two years, or three years, or both the fine and imprisonment in the discretion of the court.

SEC. 11. Section 8951 of the Revenue and Taxation Code is amended to read:

8951. The board, whenever it deems it necessary to ensure compliance with this part or any rule or regulation adopted under this part, may require any user, vendor, or wholesaler to deposit with it any security that it may determine. Any security in the form of cash, government bonds, or insured deposits in banks and savings and loan institutions shall be held by the board in trust to be used solely in the manner provided for by this section and Section 8956. The board may sell the security at public sale if it becomes necessary so to do in order to recover any amount due under this part. Notice of the sale may be served upon the person who deposited the security personally or by mail in the manner prescribed for service of notice of a deficiency determination. Upon any sale, any surplus above the amount due shall be returned to the person who deposited the security.

SEC. 11.5. Section 8951 of the Revenue and Taxation Code is amended to read:

8951. The board, whenever it deems it necessary to ensure compliance with this part or any rule or regulation adopted under this part, may require any user or vendor to deposit with it any security that it may determine. Any security in the form of cash, government bonds, or insured deposits in banks and savings and loan institutions shall be held by the board in trust to be used solely in the manner provided for by this section and Section 8956. The board may sell the security at public sale if it becomes necessary in order to recover any amount due under this part. Notice of the sale may be served upon the person who deposited the security personally or by

mail in the manner prescribed for service of notice of a deficiency determination. Upon any sale, any surplus above the amount due shall be returned to the person who deposited the security.

SEC. 12. Section 30155 of the Revenue and Taxation Code is amended to read:

30155. Every person desiring to engage in the sale of cigarettes or tobacco products as a wholesaler shall file with the board an application, in that form as the board may prescribe, for a wholesaler's license. A wholesaler shall apply for and obtain a license for each place of business at which he or she engages in the business of selling cigarettes or tobacco products as a wholesaler.

SEC. 13. Section 30461 of the Revenue and Taxation Code is amended to read:

30461. (a) All amounts required to be paid to the state under this part shall be paid to the board in the form of remittances payable to the State Board of Equalization. Except as provided in subdivision (b) and Section 30461.6, the board shall transmit the payments to the Treasurer to be deposited in the State Treasury to the credit of the Cigarette Tax Fund, which fund is hereby created.

(b) The board shall transmit amounts received from the penalty assessed pursuant to Section 30474 to the Treasurer for deposit in the General Fund.

SEC. 14. Section 43102 of the Revenue and Taxation Code is amended to read:

43102. The board, whenever it deems it necessary to ensure compliance with this part, may require any person subject to this part to place with it any security that the board determines to be reasonable, taking into account the circumstances of that person. Any security in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions shall be held by the board in trust to be used solely in the manner provided by this section. The board may sell the security at public auction if it becomes necessary to do so in order to recover any tax or any amount required to be collected, including any interest or penalty due. Notice of the sale shall be served upon the person who placed the security personally or by mail. If service is made by mail, service shall be addressed to the person at his or her address as it appears in the records of the board. Service shall be made at least 30 days prior to the sale in the case of personal service, and at least 40 days prior to the sale in the case of service by mail. Upon any sale, any surplus above the amounts due shall be returned to the person who placed the security.

SEC. 15. Section 43158 of the Revenue and Taxation Code, as added by Chapter 852 of the Statutes of 1992, is amended and renumbered to read:

43160. Every person who is required to file the returns and make the payments specified in Section 43151, 43152.6, 43152.7, 43152.9, 43152.11, 43152.13, 43152.14, or 43153 shall, upon transfer or discontinuance of operations, file closing returns on forms prescribed

by the board. The closing returns shall be due and payable on the last day of the month following the end of the quarterly period in which the transfer or discontinuance takes place.

SEC. 16. Section 45102 of the Revenue and Taxation Code is amended to read:

45102. The board, whenever it deems it necessary to ensure compliance with this part, may require any person subject to this part to place with it any security that the board determines to be reasonable, taking into account the circumstances of that person. Any security in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions shall be held by the board in trust to be used solely in the manner provided by this section. The board may sell the security at public auction if it becomes necessary to do so in order to recover any fee or any amount required to be collected, including any interest or penalty due. Notice of the sale shall be served upon the person who placed the security personally or by mail.

If service is made by mail, the notice shall be addressed to the person at his or her address as it appears in the records of the board. Service shall be made at least 30 days prior to the sale in the case of personal service, and at least 40 days prior to the sale in the case of service by mail. Upon any sale, any surplus above the amounts due shall be returned to the person who placed the security.

SEC. 17. Section 50108.2 of the Revenue and Taxation Code is amended to read:

50108.2. (a) The board, whenever it determines it to be necessary to ensure compliance with this part, may require any person subject to this part to place with it any security that the board determines to be reasonable, taking into account the circumstances of that person. Any security in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions shall be held by the board in trust to be used solely in the manner provided by this section. The board may sell the security at a public auction if it becomes necessary to do so in order to recover any fee or any amount required to be collected, including any interest or penalty due.

(b) Notice of the sale authorized in subdivision (a) shall be served upon the person who placed the security personally or by mail. If service is made by mail, the notice shall be addressed to the person at his or her address as it appears in the records of the board. Service shall be made at least 30 days prior to the sale in the case of personal service, and at least 40 days prior to the sale in the case of service by mail. Upon any sale, any surplus above the amounts due shall be returned to the person who placed the security.

SEC. 18. Section 55022 of the Revenue and Taxation Code is amended to read:

55022. The board, whenever it deems necessary to ensure compliance with this part, may require any person subject to this part to place with it any security that the board determines to be

reasonable, taking into account the circumstances of that person. The board may sell the security at public auction if it becomes necessary to do so in order to recover any fee or any amount required to be collected, including any interest or penalty due. Notice of the sale shall be served upon the person who placed the security personally or by mail.

If service is made by mail, the notice shall be addressed to the person at his or her address as it appears in the records of the board. Service shall be made at least 30 days prior to the sale in the case of personal service, and at least 40 days prior to the sale in the case of service by mail. Upon any sale, any surplus above the amounts due shall be returned to the person who placed the security.

SEC. 19. Section 11.5 of this bill incorporates amendments to Section 8951 of the Revenue and Taxation Code proposed by both this bill and SB 840. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, but this bill becomes operative first, (2) each bill amends Section 8951 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 840, in which case Section 8951 of the Revenue and Taxation Code, as amended by Section 11 of this bill, shall remain operative only until the operative date of SB 840, at which time Section 11.5 of this bill shall become operative.

SEC. 20. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 904

An act to amend Section 3003 of the Penal Code, relating to parole.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 3003 of the Penal Code is amended to read:

3003. (a) Except as otherwise provided in this section, an inmate who is released on parole shall be returned to the county from which he or she was committed.

For purposes of this subdivision, "county from which he or she was committed" means the county where the crime for which the inmate

was convicted occurred and shall not be construed to mean the county wherein the inmate committed an offense while confined in a state prison facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county in a case where that would be in the best interests of the public and of the parolee. If the Board of Prison Terms setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, or the Department of Corrections setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record. In making its decision, the authority may consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The last legal residence of the inmate having been in another county.

(5) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(6) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) Notwithstanding any other law, an inmate who is released on parole shall not be returned to within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, of subdivision (c) of Section 667.5 and any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 or 12022.9, if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of a victim or witness.

(d) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county compared to the number of commitments from that county when making parole decisions.

(e) An inmate may be paroled to another state pursuant to any other law.

SEC. 1.1. Section 3003 of the Penal Code is amended to read:

3003. (a) (1) Except as otherwise provided in this section, a parolee who is released on parole shall be returned to the county from which he or she was committed by the Department of

Corrections and the parolee shall, after January 1, 1996, participate in any transportation program developed by the Department of Corrections, as a term and condition of his or her parole.

(2) Upon a determination by the Department of Corrections that it is in the best interest of the public safety, the department shall physically transport the parolee, upon his or her release, to the county specified in paragraph (1). Until January 1, 1996, this paragraph shall only apply if this provision is made a condition of parole and the parolee accepts the condition.

(3) For purposes of this subdivision, "county from which he or she was committed" means the county where the crime for which the parolee was convicted occurred and shall not be construed to mean the county wherein the parolee committed an offense while confined in a state prison facility or while confined for treatment in a state hospital.

(4) The Department of Corrections shall develop and implement, by January 1, 1996, a cost-effective transportation program to transport each parolee to the county from which he or she was committed.

(b) Notwithstanding subdivision (a), a parolee may be returned to another county in a case where that would be in the best interests of the public and of the parolee. If the Board of Prison Terms setting the conditions of parole for parolees sentenced pursuant to subdivision (b) of Section 1168, or the Department of Corrections setting the conditions of parole for parolees sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record. In making its decision, the authority may consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the parolee's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The last legal residence of the parolee having been in another county.

(5) The existence of family in another county with whom the parolee has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(6) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) Notwithstanding any other law, a parolee shall not be returned to within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, of subdivision (c) of Section 667.5 and any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for

in Section 12022.7 or 12022.9, if the victim or witness has requested additional distance in the placement of the parolee on parole, and if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of a victim or witness.

(d) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county compared to the number of commitments from that county when making parole decisions.

(e) A parolee may be paroled to another state pursuant to any other law.

(f) Nothing in this section shall be construed as requiring or authorizing parole agents to transport prisoners or parolees from one site to any other site.

SEC. 1.2. Section 3003 of the Penal Code is amended to read:

3003. (a) Except as otherwise provided in this section, an inmate who is released on parole shall be returned to the county from which he or she was committed.

For purposes of this subdivision, "county from which he or she was committed" means the county where the crime for which the inmate was convicted occurred and shall not be construed to mean the county wherein the inmate committed an offense while confined in a state prison facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county in a case where that would be in the best interests of the public and of the parolee. If the Board of Prison Terms setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, or the Department of Corrections setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record. In making its decision, the authority may consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The last legal residence of the inmate having been in another county.

(5) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(6) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) The Department of Corrections, in determining an

out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.

(d) (1) The Department of Corrections shall establish a pilot project, limited to San Bernardino County, in which the following information, if available, shall be released to the local law enforcement agencies regarding a paroled inmate who is released in San Bernardino County:

(A) Last, first, and middle name.

(B) Birth date.

(C) Sex, race, height, weight, and hair and eye color.

(D) Date of parole and discharge.

(E) Registration status if the inmate is required to register as a result of a controlled substance, sex, or arson offense.

(F) California Criminal Information Number, FBI number, social security number, and driver's license number.

(G) County of commitment.

(H) A description of scars, marks, and tattoos on the inmate.

(I) Offense or offenses for which the inmate was convicted that resulted in parole in this instance.

(J) Address, including all of the following information:

(i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.

(ii) City and ZIP Code.

(iii) Date the address as provided pursuant to this subparagraph was last verified.

(K) Contact officer and unit, including all of the following information:

(i) Name and telephone number of each contact officer.

(ii) Contact unit type of each contact officer, such as units responsible for parole, registration, or county probation.

(2) The information required by this subdivision shall come from the parolee activity report and sex registrants file. The information obtained from each source shall be based on the same timeframe.

(3) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be done by modem or tape transfer at least once each month.

(4) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.

(5) The San Bernardino County Sheriff's Department shall provide a program evaluation to the Department of Corrections at least once per month. The information shall be provided in a form available for transfer by modem or tape.

(6) The Department of Corrections shall prepare and submit to the Legislature on or before June 30, 1996, a report on the program that includes a recommendation on whether the pilot program should be expanded and an evaluation of the resources necessary to expand the program statewide.

(e) Notwithstanding any other law, an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, of subdivision (c) of Section 667.5 or a felony in which the defendant inflicts great bodily injury on any person other than an accomplice that has been charged and proved as provided for in Section 12022.7 or 12022.9, if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of a victim or witness.

(f) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county compared to the number of commitments from that county when making parole decisions.

(g) An inmate may be paroled to another state pursuant to any other law.

SEC. 1.3. Section 3003 of the Penal Code is amended to read:

3003. (a) (1) Except as otherwise provided in this section, a parolee who is released on parole shall be returned to the county from which he or she was committed by the Department of Corrections and the parolee shall, after January 1, 1996, participate in any transportation program developed by the Department of Corrections, as a term and condition of his or her parole.

(2) Upon a determination by the Department of Corrections that it is in the best interest of the public safety, the department shall physically transport the parolee, upon his or her release, to the county specified in paragraph (1). Until January 1, 1996, this paragraph shall only apply if this provision is made a condition of parole and the parolee accepts the condition.

(3) For purposes of this subdivision, "county from which he or she was committed" means the county where the crime for which the parolee was convicted occurred and shall not be construed to mean the county wherein the parolee committed an offense while confined in a state prison facility or while confined for treatment in a state hospital.

(4) The Department of Corrections shall develop and implement, by January 1, 1996, a cost-effective transportation program to transport each parolee to the county from which he or she was committed.

(b) Notwithstanding subdivision (a), a parolee may be returned to another county in a case where that would be in the best interests of the public and of the parolee. If the Board of Prison Terms setting the conditions of parole for parolees sentenced pursuant to subdivision (b) of Section 1168, or the Department of Corrections setting the conditions of parole for parolees sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record. In making its decision, the authority may consider, among others, the following

factors, giving the greatest weight to the protection of the victim and the safety of the community:

(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the parolee's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The last legal residence of the parolee having been in another county.

(5) The existence of family in another county with whom the parolee has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(6) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) The Department of Corrections, in determining an out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.

(d) (1) The Department of Corrections shall establish a pilot project, limited to San Bernardino County, in which the following information, if available, shall be released to the local law enforcement agencies regarding a paroled inmate who is released in San Bernardino County:

(A) Last, first, and middle name.

(B) Birth date.

(C) Sex, race, height, weight, and hair and eye color.

(D) Date of parole and discharge.

(E) Registration status if the inmate is required to register as a result of a controlled substance, sex, or arson offense.

(F) California Criminal Information Number, FBI number, social security number, and driver's license number.

(G) County of commitment.

(H) A description of scars, marks, and tattoos on the inmate.

(I) Offense or offenses for which the inmate was convicted that resulted in parole in this instance.

(J) Address, including all of the following information:

(i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.

(ii) City and ZIP Code.

(iii) Date the address as provided pursuant to this subparagraph was last verified.

(K) Contact officer and unit, including all of the following information:

(i) Name and telephone number of each contact officer.

(ii) Contact unit type of each contact officer, such as units responsible for parole, registration, or county probation.

(2) The information required by this subdivision shall come from the parolee activity report and sex registrants file. The information obtained from each source shall be based on the same timeframe.

(3) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be done by modem or tape transfer at least once each month.

(4) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.

(5) The San Bernardino County Sheriff's Department shall provide a program evaluation to the Department of Corrections at least once per month. The information shall be provided in a form available for transfer by modem or tape.

(6) The Department of Corrections shall prepare and submit to the Legislature on or before June 30, 1996, a report on the program that includes a recommendation on whether the pilot program should be expanded and an evaluation of the resources necessary to expand the program statewide.

(e) Notwithstanding any other law, a parolee shall not be returned a location to within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, of subdivision (c) of Section 667.5 or a felony in which the defendant inflicts great bodily injury on any person other than an accomplice that has been charged and proved as provided for in Section 12022.7 or 12022.9, if the victim or witness has requested additional distance in the placement of the parolee on parole, and if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of a victim or witness.

(f) The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county compared to the number of commitments from that county when making parole decisions.

(g) A parolee may be paroled to another state pursuant to any other law.

(h) Nothing in this section shall be construed as requiring or authorizing parole agents to transport prisoners or parolees from one site to any other site.

SEC. 2. (a) Section 1.1 of this bill incorporates amendments to Section 3003 of the Penal Code proposed by both this bill and AB 3331. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 3003 of the Penal Code, (3) AB 3 of the 1993–94 First Extraordinary Section is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 3331, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 3003 of the Penal Code proposed by both this bill and AB 3 of the 1993–94 First Extraordinary Session. It shall only become operative if (1) both bills are enacted and become effective, (2) each bill amends Section 3003 of the Penal Code, (3) AB 3331 is not enacted

or as enacted does not amend that section, and (4) this bill is enacted after AB 3, in which case one of the following alternatives shall be applicable:

(1) If this bill becomes operative before AB 3, Section 1 of this bill shall be operative until the operative date of AB 3, at which time Section 1.2 of this bill shall become operative, and Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(2) If this bill becomes operative after AB 3, Section 3003 of the Penal Code, as amended by AB 3, shall remain operative only until the operative date of this bill, at which time Section 1.2 of this bill shall become operative, and Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 3003 of the Penal Code proposed by this bill, AB 3331, and AB 3 of the 1993–94 First Extraordinary Session. It shall only become operative if (1) all three bills are enacted and become effective, (2) all three bills amend Section 3003 of the Penal Code, and (3) this bill is enacted after AB 3331 and AB 3, in which case one of the following alternatives shall be applicable:

(1) If this bill becomes operative before AB 3, Section 1.1 of this bill shall be operative until the operative date of AB 3, at which time Section 1.3 of this bill shall become operative, and Sections 1, 1.1, and 1.2 of this bill shall not become operative.

(2) If this bill becomes operative after AB 3, Section 3003 of the Penal Code, as amended by AB 3, shall remain operative only until the operative date of this bill, at which time Section 1.3 of this bill shall become operative, and Sections 1, 1.1, and 1.2 of this bill shall not become operative.

CHAPTER 905

An act to add Section 1760.8 to the Welfare and Institutions Code, relating to youth.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 1760.8 is added to the Welfare and Institutions Code, to read:

1760.8. (a) The Department of the Youth Authority shall annually develop a population management and facilities master plan presenting projected population and strategies for treatment and housing of wards for the succeeding five-year period. This plan shall set forth the department's strategy for bridging the gap between available bedspace and the projected ward population. This master plan shall be updated and submitted to the Legislature by

January 10 of each year.

(b) The Department of the Youth Authority may contract with the Department of Corrections or the Office of Project Development and Management within the Department of General Services for professional and construction services related to the construction of facilities or renovation projects included in the Department of the Youth Authority's 1994–99 master plan for which funds are appropriated by the Legislature. The Department of the Youth Authority shall be responsible for program planning and all design decisions. The Department of Corrections or the Department of General Services shall, in consultation with the Department of the Youth Authority, ensure that all facilities are designed and constructed specifically for the needs of the youthful offender population. The Department of the Youth Authority also shall ensure that the design and construction of any facilities are consistent with the mission of the Department of the Youth Authority, which emphasizes the protection of the public from criminal activity and the rehabilitation of youthful offenders by providing education, training, and treatment services for those offenders committed by the courts. Any power, function, or jurisdiction for planning, design, and construction of facilities or renovation projects pursuant to the 1994–99 master plan that is conferred upon the Department of General Services shall be deemed to be conferred upon the Department of Corrections for purposes of this section. The Director of the Department of General Services may, upon the request of the Director of the Department of Corrections, delegate to the Department of Corrections any power, function, or jurisdiction for planning, design, and construction of any additional projects included within subsequent Department of the Youth Authority master plans.

CHAPTER 906

An act to add Section 490.5 to the Business and Professions Code, to amend Section 4055 of, and to add Section 4508 to, the Family Code, to amend Section 19271 of, and to repeal Section 19274 of, the Revenue and Taxation Code, to add Section 15310 to the Vehicle Code, and to amend Section 11350.6 of, and to add Section 11475.3 to, the Welfare and Institutions Code, relating to family law.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 490.5 is added to the Business and Professions Code, to read:

490.5. A board may suspend a license pursuant to Section 11350.6

of the Welfare and Institutions Code if a licensee is not in compliance with a child support order or judgment.

SEC. 1.5. Section 4055 of the Family Code is amended to read:

4055. (a) The statewide uniform guideline for determining child support orders is as follows: CS = K [HN − (H%) (TN)].

(b) (1) The components of the formula are as follows:

(A) CS = child support amount.

(B) K = amount of both parents' income to be allocated for child support as set forth in paragraph (3).

(C) HN = high earner's net monthly disposable income.

(D) H% = approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent. In cases in which parents have different time-sharing arrangements for different children, H% equals the average of the approximate percentages of time the high earner parent spends with each child.

(E) TN = total net monthly disposable income of both parties.

(2) To compute net disposable income, see Section 4059.

(3) K (amount of both parents' income allocated for child support) equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

Total Net Disposable Income Per Month	K
$0–800	0.20 + TN/16,000
$801–6,666	0.25
$6,667–10,000	0.10 + 1,000/TN
Over $10,000	0.12 + 800/TN

For example, if H% equals 20 percent and the total monthly net disposable income of the parents is $1,000, K = (1 + 0.20) × 0.25, or 0.30. If H% equals 80 percent and the total monthly net disposable income of the parents is $1,000, K = (2 − 0.80) × 0.25, or 0.30.

(4) For more than one child, multiply CS by:

2 children	1.6
3 children	2
4 children	2.3
5 children	2.5
6 children	2.625
7 children	2.75
8 children	2.813
9 children	2.844
10 children	2.86

(5) If the amount calculated under the formula results in a positive number, the higher earner shall pay that amount to the lower earner. If the amount calculated under the formula results in a negative number, the lower earner shall pay the absolute value of

that amount to the higher earner.

(6) In any default proceeding where proof is by affidavit pursuant to Section 2336, or in any proceeding for child support in which a party fails to appear after being duly noticed, H% shall be set at zero in the formula if the noncustodial parent is the higher earner or at 100 if the custodial parent is the higher earner, where there is no evidence presented demonstrating the percentage of time that the noncustodial parent has primary physical responsibility for the children.

(7) In all cases in which the net disposable income per month of the obligor is less than one thousand dollars ($1,000), the court shall rule on whether a low-income adjustment shall be made. The ruling shall be based on the facts presented to the court, the principles provided in Section 4053, and the impact of the contemplated adjustment on the respective net incomes of the obligor and the obligee. Where the court has ruled that a low-income adjustment shall be made, the child support amount otherwise determined under this section shall be reduced by an amount that is no greater than the amount calculated by multiplying the child support amount otherwise determined under this section by a fraction, the numerator of which is 1,000 minus the obligor's net disposable income per month, and the denominator of which is 1,000. If a low-income adjustment is allowed, the court shall state the reasons supporting the adjustment in writing or on the record and shall document the amount of the adjustment and the underlying facts and circumstances.

(8) Unless the court orders otherwise, the order for child support shall allocate the support amount so that the amount of support for the youngest child is the amount of support for one child, and the amount for the next youngest child is the difference between that amount and the amount for two children, with similar allocations for additional children. However, this paragraph does not apply to cases where there are different time-sharing arrangements for different children or where the court determines that the allocation would be inappropriate in the particular case.

(c) In the event a court uses a computer to calculate the child support order, the computer program shall not automatically default affirmatively or negatively on whether a low-income adjustment is to be applied. If the low-income adjustment is applied, the computer program shall not provide the amount of the low-income adjustment. Instead, the computer program shall ask the user whether or not to apply the low-income adjustment, and if answered affirmatively, the computer program shall provide the range of the adjustment permitted by paragraph (7) of subdivision (b).

SEC. 2. Section 4508 is added to the Family Code, to read:

4508. (a) This section does not apply to any child support obligor who is subject to an earnings assignment order pursuant to Chapter 8 (commencing with Section 5200).

(b) Except as provided in subdivision (a), every order or

judgment to pay child support may require a child support obligor to designate an account for the purpose of paying the child support obligation by electronic funds transfer, as defined in subdivision (a) of Section 6479.5 of the Revenue and Taxation Code. The order or judgment may require the obligor to deposit funds in an interest-bearing account with a state or federally chartered commercial bank, a savings and loan association, or in shares of a federally insured credit union doing business in this state, and shall require the obligor to maintain funds in the account sufficient to pay the monthly child support obligation. However, if the obligor does not have such an account, the court may not require the obligor to establish an account for the purposes of this section. The court may order that each payment be electronically transferred to either the obligee's account or the district attorney's account. The obligor shall be required to notify the obligee if the depository institution or the account number is changed. No interest shall accrue on any amount subject to electronic funds transfer as long as funds are maintained in the account that are sufficient to pay the monthly child support obligation.

SEC. 3. Section 19271 of the Revenue and Taxation Code is amended to read:

19271. (a) When a child support delinquency is reported to the State Department of Social Services pursuant to Chapter 4 (commencing with Section 4700) of Part 5 of Division 9 of the Family Code, the county district attorney reporting that delinquency may, pursuant to the guidelines prescribed by the State Department of Social Services and the Franchise Tax Board for purposes of implementing this article, refer the delinquency, which may include or be limited to interest, fees, or penalties, to the Franchise Tax Board for collection. In order to manage the growth in the number of referrals that it may receive, the Franchise Tax Board may phase in the referrals as administratively necessary. By December 31, 1996, or sooner if administratively possible, all counties shall be allowed to refer delinquencies to the Franchise Tax Board in accordance with this subdivision.

(b) (1) When a delinquency is referred to the Franchise Tax Board pursuant to subdivision (a), the amount of the child support delinquency shall be collected from obligated parents by the Franchise Tax Board in any manner authorized under the law for collection of a delinquent personal income tax liability, including, but not limited to, issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes. Any law providing for the collection of a delinquent personal income tax liability shall apply to delinquencies referred under this article in the same manner and with the same force and effect and to the full extent as if the language of such laws had been incorporated in full into this article, except to the extent that any provision is either

inconsistent with a provision of this article or is not relevant to this article.

(2) Any compensation, fee, commission, expense, or any other fee for service incurred by the Franchise Tax Board in the collection of a child support delinquency authorized under this article shall not be an obligation of, or collected from, the obligated parent. A referred child support delinquency shall be final and due and payable to the State of California upon written notice to the obligated parent by the Franchise Tax Board.

(3) For purposes of administering this article:

(A) This chapter and Chapter 7 (commencing with Section 19501) shall apply, except as otherwise provided by this article.

(B) Any services, information, or enforcement remedies available to a district attorney or the Title IV-D agency in collecting support delinquencies or locating absent or noncustodial parents shall be available to the Franchise Tax Board for purposes of collecting child support delinquencies under this article, including, but not limited to, any information that may be disclosed by the Franchise Tax Board to the California Parent Locator Service under Section 19285.1.

(C) A request by the Franchise Tax Board for information from a financial institution shall be treated in the same manner and to the same extent as a request for information from a district attorney referring to a support order pursuant to Section 11475.1 of the Welfare and Institutions Code for purposes of Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code (relating to governmental access to financial records), notwithstanding any other provision of law which is inconsistent or contrary to this paragraph.

(D) "Earnings" may include the items described in Section 5206 of the Family Code.

(E) The amount to be withheld in an order and levy to collect child support delinquencies under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure is the amount required to be withheld pursuant to an earnings withholding order for support under Section 706.052 of the Code of Civil Procedure.

(c) Interest on the delinquency shall be computed pursuant to Section 685.010 of the Code of Civil Procedure.

(d) In the event the collection action would cause undue financial hardship to the obligated parent, would threaten the health or welfare of the obligated parent or his or her family, or would cause undue irreparable loss to the obligated parent, the obligated parent may notify the Franchise Tax Board, which shall upon being notified refer the obligated parent to the referring county district attorney, unless the Franchise Tax Board is directed otherwise by the county district attorney for purposes of more effectively administering this article.

(e) (1) In no event shall a collection under this article be construed to be a payment of income taxes imposed under this part.

(2) In the event an obligated parent overpays a liability imposed under this part, the overpayment shall not be credited against any delinquency collected pursuant to this article. In the event an overpayment of a liability imposed under this part is offset and distributed to a referring county district attorney pursuant to Sections 12419.3 and 12419.5 of the Government Code or Section 708.740 of the Code of Civil Procedure, and thereby reduces the amount of the referred delinquency, the referring county district attorney shall immediately notify the Franchise Tax Board of that reduction, unless otherwise directed for purposes of more effectively administering this article.

(3) In no event shall the Franchise Tax Board collect under this article any delinquency referred under this article if all of the following circumstances exist:

(A) A court has ordered an obligor to make scheduled payments on a child support arrearages obligation.

(B) The obligor is in compliance with the order.

(C) The order does not provide the district attorney with authority to engage in continued or additional collection activities.

(f) Except as otherwise provided in this article, any child support delinquency referred to the Franchise Tax Board pursuant to this article shall be treated as a child support delinquency for all other purposes, and any collection action by the county district attorney or the Franchise Tax Board with respect to any delinquency referred pursuant to this article shall have the same priority against attachment, execution, assignment, or other collection action as is provided by any other provision of state law.

(g) For purposes of this article, "child support" means support of a child, spouse, or family as provided in Section 150 of the Family Code.

(h) Nothing in this article shall be construed to modify the tax intercept provisions of Article 8 (commencing with Section 708.710) of Chapter 6 of Division 2 of Part 2 of the Code of Civil Procedure.

(i) The child support collection activities authorized by this article shall not interfere with the primary mission of the Franchise Tax Board to fairly and efficiently administer the Revenue and Taxation Code for which it is responsible.

(j) Information disclosed to the Franchise Tax Board shall be considered information disclosed by the Franchise Tax Board under the authority of Section 19285.1 and may be disseminated by the Franchise Tax Board accordingly for the purposes specified in Sections 11478 and 11478.5 of the Welfare and Institutions Code (in accordance with, and to the extent permitted by, Section 11478.1 of the Welfare and Institutions Code and any other state or federal law).

SEC. 3.3. Section 19274 of the Revenue and Taxation Code is repealed.

SEC. 3.4. Section 15310 is added to the Vehicle Code, to read:

15310. The department shall take action regarding the

commercial driving privilege of any person when appropriate pursuant to Section 11350.6 of the Welfare and Institutions Code. Such action may include, but is not limited to, the issuance of a temporary license, suspension of a license, denial of an application for renewal, or any other action authorized or required pursuant to Section 11350.6 of the Welfare and Institutions Code. An administrative service fee shall be charged for each action taken pursuant to this section in an amount determined by the director to be sufficient to cover the actual costs of the suspension or termination and reinstatement of the driving privilege.

SEC. 3.6. Section 11350.6 of the Welfare and Institutions Code is amended to read:

11350.6. (a) As used in this section:

(1) "Applicant" means any person applying for issuance or renewal of a license.

(2) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the Department of Real Estate, and any other state commission, department, committee, examiner, or agency that issues a license, certificate, credential, or registration authorizing a person to engage in a business, occupation, or profession.

(3) "Certified list" means a list provided by the district attorney to the State Department of Social Services in which the district attorney verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.

(4) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court-ordered or by agreement with the district attorney, on a support arrearage, or in making periodic payments in full, whether court-ordered or by agreement with the district attorney, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The district attorney is authorized to use this section to enforce orders for spousal support only when the district attorney is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 11475.1 and 11475.2.

(5) "License" includes membership in the State Bar, and a certificate, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle.

(6) "Licensee" means any person holding a license, certificate, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial

driver's license as defined in Section 15210 of the Vehicle Code.

(b) The district attorney shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The district attorney shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the district attorney who certified the list to the State Department of Social Services. The district attorney shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The district attorney shall submit to the State Department of Social Services an updated certified list on a monthly basis.

(c) The State Department of Social Services shall consolidate the certified lists received from the district attorneys and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board which is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the State Department of Social Services, all boards subject to this section shall implement procedures to accept and process the list provided by the State Department of Social Services, in accordance with this section.

(e) (1) Promptly after receiving the certified consolidated list from the State Department of Social Services, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the State Department of Social Services. The board shall have the authority to withhold issuance or renewal of the license of any applicant on the list.

(2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(B) The 150-day time period for a temporary license shall not be extended. Only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(3) (A) The State Department of Social Services may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.

(B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that his or her license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.

(C) The 150-day notice period shall not be extended.

(D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.

(E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.

(f) Notices shall be developed by each board in accordance with guidelines provided by the State Department of Social Services and subject to approval by the State Department of Social Services. The notice shall include the address and telephone number of the district attorney who submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that district attorney's office as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the district attorney who submitted the name on the certified list.

(2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that his or her license will continue in its existing status for no more than 150 calendar days from the date

of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the district attorney who submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.

(3) The notice shall also inform the applicant that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The State Department of Social Services shall also develop a form that the applicant shall use to request a review by the district attorney. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) Each district attorney shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review on the form specified in subdivision (f) to the district attorney who certified the applicant's name. The district attorney shall, within 75 days of receipt of the written request, inform the applicant in writing of his or her findings upon completion of the review. The district attorney shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the district attorney for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the district attorney will be unable to complete the review and send notice of his or her findings to the applicant within 75 days. This paragraph applies only if the delay in completing the review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving notice from the board that his or her name is on the list.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the district attorney's notice of his or her findings.

(4) The applicant has obtained a judicial finding of compliance as

defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the district attorney with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the district attorney and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the district attorney to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the district attorney shall not issue a release if the applicant is not in compliance with the judgment or order for support. The district attorney shall notify the applicant in writing that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the district attorney's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

Nothing in this section shall be deemed to limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the district attorney's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the district attorney's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with judgment or order of support.

(4) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as

described in this subdivision.

The request for judicial review shall be served by the applicant upon the district attorney who submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the district attorney shall immediately send a release in accordance with subdivision (h) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment terms, compliance with which are necessary to allow the release to remain in effect.

(*l*) The State Department of Social Services shall prescribe release forms for use by district attorneys. When the obligor is in compliance, the district attorney shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support.

If the district attorney determines subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the district attorney may notify the board, the obligor, and the State Department of Social Services in a format prescribed by the State Department of Social Services that the obligor is not in compliance.

The State Department of Social Services may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance. Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until such time a new release is issued in accordance with subdivision (h). Nothing in this section shall be deemed to limit the obligor from seeking judicial review of suspension pursuant to the procedures described in this subdivision.

(m) The State Department of Social Services may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to

implement this section, to the extent that it is cost-effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the State Department of Social Services for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the State Department of Social Services for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants.

(n) Notwithstanding any other provision of law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

(1) The number of delinquent obligors certified by district attorneys under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an

applicant who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section shall be subject to the Information Practices Act (Section 1798.76 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section may be adopted as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The State Department of Social Services and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (*l*).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(w) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

SEC. 4. Section 11475.3 is added to the Welfare and Institutions Code, to read:

11475.3. A district attorney who is collecting child support payments on behalf of a child and who is unable to deliver the payments to the obligee because the district attorney is unable to locate the obligee shall make all reasonable efforts to locate the obligee for a period of six months. If the district attorney is unable to locate the obligee within the six-month period, he or she shall return the undeliverable payments to the obligor, with written notice advising the obligor that (a) the return of the funds does not relieve the obligor of the support order, and (b) the obligor should consider placing the funds aside for purposes of child support in case the obligee appears and seeks collection of the undistributed amounts. No interest shall accrue on any past due child support amount for which the obligor made payment to the district attorney for six consecutive months, or on any amounts due thereafter until the obligee is located, provided that the district attorney returned the funds to the obligor because the district attorney was unable to

locate the obligee and, when the obligee was located, the obligor made full payment for all past due child support amounts.

SEC. 5. Sections 1 and 3.6 of this act shall become operative on January 1, 1996.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 907

An act to add Section 261.7 to the Penal Code, relating to sex offenses.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. Section 261.7 is added to the Penal Code, to read:

261.7. In prosecutions under Section 261, 286, 288a, or 289, in which consent is at issue, evidence that the victim suggested, requested, or otherwise communicated to the defendant that the defendant use a condom or other birth control device, without additional evidence of consent, is not sufficient to constitute consent.

CHAPTER 908

An act to amend and repeal Sections 1601, 1616.5, 1742, 2001, 2020, 2460, 2531, 2602, 2607.5, 2701, 2708, 2841, 2847, 2920, 2933, 3010, 3014.5, 3320, 3504, 3710, 3716, 3910, 3915, 4000, 4004.5, 4501, 4503, 4800, 4804.5, 4928, 4934, 4990.1, 4990.8, 5000, 5015.6, 5510, 5517, 5620, 5624, 6710, 6714, 7000.5, 7011, 7200, 7302, 7310, 7601, 7607.5, 7801, 7815.5, 8000, 8005, 8520, 8528, 8710, and 9625 of, to add Sections 101.1 and 5810 to, to add Article 4 (commencing with Section 2569) to Chapter 5.5 of, and Article 7 (commencing with Section 4989) to Chapter 13 of Division 2 of, and Article 17 (commencing with Section 18890) to Chapter 2 of Division 8 of, and to add Division 1.2 (commencing with

Section 473) to, the Business and Professions Code, and to amend Sections 9148, 9148.4, and 9148.10 of, and to amend the heading of Article 8 (commencing with Section 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of, the Government Code, relating to licensed professionals, and making an appropriation therefor.

[Approved by Governor September 26, 1994. Filed with Secretary of State September 27, 1994.]

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

SECTION 1. The Legislature finds and declares the following:

(a) California's multilevel, complex governmental structure today contains more than 50 categories of licensed professionals.

(b) These categories of licensed professionals include licensees, who practice with a varying degree of training, qualifications, and supervision.

(c) These categories of licensed professionals have been established without any method of periodically reviewing their necessity, effectiveness, or utility.

(d) As a result, the Legislature and residents of California cannot be assured that existing or proposed professional or occupational licensing and regulation adequately protects the public health, safety, and welfare.

SEC. 2. Section 101.1 is added to the Business and Professions Code, to read:

101.1. (a) It is the intent of the Legislature that all existing and proposed consumer-related boards or categories of licensed professionals be subject to a review every four years to evaluate and determine whether each board has demonstrated a public need for the continued existence of that board in accordance with enumerated factors and standards as set forth in Division 1.2 (commencing with Section 473).

(b) (1) In the event that any board, as defined in Section 477, becomes inoperative and is repealed in accordance with the act that added this section, the Department of Consumer Affairs shall succeed to and is vested with all the duties, powers, purposes, responsibilities and jurisdiction of that board and its executive officer.

(2) Any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that board is inoperative or repealed. Every reference to the inoperative or repealed board, as defined in Section 477, shall be deemed to be a reference to the department.

(3) Notwithstanding Section 107, any provision of law authorizing the appointment of an executive officer by a board subject to the review described in Division 1.2 (commencing with Section 473), or prescribing his or her duties, shall not be implemented and shall have

no force or effect while the applicable board is inoperative or repealed. Any reference to the executive officer of an inoperative or repealed board shall be deemed to be a reference to the director or his or her designee.

(c) It is the intent of the Legislature that subsequent legislation to extend or repeal the inoperative date for any board shall be a separate bill for that purpose.

SEC. 5. Division 1.2 (commencing with Section 473) is added to the Business and Professions Code, to read:

DIVISION 1.2. LEGISLATIVE SUNSET REVIEW COMMITTEE

473. (a) There is hereby established the Joint Legislative Sunset Review Committee.

(b) The Joint Legislative Sunset Review Committee shall consist of three members appointed by the Senate Committee on Rules and three members appointed by the Speaker of the Assembly. No more than two of the three members appointed from either the Senate or the Assembly shall be from the same party. The Joint Rules Committee shall annually appoint the chairperson of the committee. The chairperson of this committee may not sit as the chairperson of either standing committee.

(c) The Joint Legislative Sunset Review Committee shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

(d) The Speaker of the Assembly and the Senate Committee on Rules may designate staff for the Joint Legislative Sunset Review Committee.

(e) The Joint Legislative Sunset Review Committee is authorized to act until January 1, 2004, at which time the committee's existence shall terminate.

473.1. This division shall apply to every board, as defined in Section 22, that is scheduled to become inoperative on July 1, 1997, July 1, 1998, or July 1, 1999, and to be repealed on either January 1, 1998, January 1, 1999, or January 1, 2000, respectively, by the act which enacted this division.

473.2. All boards to which this division applies shall, with the assistance of the Department of Consumer Affairs, prepare an analysis and submit a report to the Joint Legislative Sunset Review Committee no later than one year plus 90 days prior to the January 1st of the year during which that board shall become inoperative. The analysis and report shall include, at a minimum, all of the following:

(a) A comprehensive statement of the board's mission, goals, objectives and legal jurisdiction in protecting the health, safety, and welfare of the public.

(b) The board's enforcement priorities, complaint and enforcement data, budget expenditures with average- and median-costs per case, and case aging data specific to post and preaccusation cases at the Attorney General's office.

(c) The board's fund conditions, sources of revenues, and expenditure categories for the last four fiscal years by program component.

(d) The board's description of its licensing process including the time and costs required to implement and administer its licensing examination, ownership of the license examination, relevancy and validity of the licensing examination, and passage rate and areas of examination.

(e) The board's initiation of legislative efforts, budget change proposals, and other initiatives it has taken to improve its legislative mandate.

473.3. Prior to the termination, continuation, or reestablishment of any board or any of the board's functions, the Joint Legislative Sunset Review Committee shall, during the interim recess preceding the date upon which a board becomes inoperative, hold public hearings to receive testimony from the Director of Consumer Affairs, the board involved, and the public and regulated industry. In that hearing, each board shall have the burden of demonstrating a compelling public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare.

473.4. (a) The Joint Legislative Sunset Review Committee shall evaluate and determine whether a board or regulatory program has demonstrated a public need for the continued existence of the board or regulatory program and for the degree of regulation the board or regulatory program implements based on the following factors and minimum standards of performance:

(1) Whether regulation by the board is necessary to protect the public health, safety, and welfare.

(2) Whether the basis or facts that necessitated the initial licensing or regulation of a practice or profession have changed.

(3) Whether other conditions have arisen that would warrant increased, decreased, or the same degree of regulation.

(4) If regulation of the profession or practice is necessary, whether existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms, and whether the board rules enhance the public interest and are within the scope of legislative intent.

(5) Whether the board operates and enforces its regulatory responsibilities in the public interest and whether its regulatory mission is impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource, and personnel matters.

(6) Whether an analysis of board operations indicates that the board performs its statutory duties efficiently and effectively.

(7) Whether the composition of the board adequately represents the public interest and whether the board encourages public participation in its decisions rather than participation only by the industry and individuals it regulates.

(8) Whether the board and its laws or regulations stimulate or restrict competition, and the extent of the economic impact the board's regulatory practices have on the state's business and technological growth.

(9) Whether complaint, investigation, powers to intervene, and disciplinary procedures adequately protect the public and whether final dispositions of complaints, investigations, restraining orders, and disciplinary actions are in the public interest; or if it is, instead, self-serving to the profession, industry or individuals being regulated by the board.

(10) Whether the scope of practice of the regulated profession or occupation contributes to the highest utilization of personnel and whether entry requirements encourage affirmative action.

(11) Whether administrative and statutory changes are necessary to improve board operations to enhance the public interest.

(b) The Joint Legislative Sunset Review Committee shall consider alternatives to placing responsibilities and jurisdiction of the board under the Department of Consumer Affairs.

(c) Nothing in this section precludes any board from submitting other appropriate information to the Joint Legislative Sunset Review Committee.

473.5. The Joint Legislative Sunset Review Committee shall report its findings and recommendations to the department for its review, and, within 60 days of receiving the report, the department shall report its findings and recommendations, which shall incorporate the findings and recommendations of the Joint Legislative Sunset Review Committee, to the Legislature during the next year of the regular session that follows the hearings described in Section 473.3. The report shall include whether each board or function scheduled for repeal shall be terminated, continued, or reestablished, and whether its functions should be revised. If the committee or the department deems it advisable, the report may include proposed bills to carry out its recommendations.

SEC. 6. Section 1601 of the Business and Professions Code is amended to read:

1601. There is in the Department of Consumer Affairs a Board of Dental Examiners of California in which the administration of this chapter is vested. The board consists of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. The board shall be organized into standing committees dealing with examinations, enforcement, auxiliary matters, and other subjects as the board deems appropriate.

This section shall become inoperative on July 1, 1998, and, as of

January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 1616.5 of the Business and Professions Code is amended to read:

1616.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7.5. Section 1742 of the Business and Professions Code is amended to read:

1742. There is within the jurisdiction of the board a Committee on Dental Auxiliaries.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 2001 of the Business and Professions Code is amended to read:

2001. There is in the Department of Consumer Affairs a Medical Board of California which consists of 19 members, seven of whom shall be public members.

The Governor shall appoint 17 members to the board, subject to confirmation by the Senate, five of whom shall be public members. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 2020 of the Business and Professions Code is amended to read:

2020. The board may employ an executive director exempt from the provisions of the Civil Service Act and may also employ investigators, legal counsel, medical consultants, and other assistance as it may deem necessary to carry into effect this chapter. The board may fix the compensation to be paid for services subject to the provisions of applicable state laws and regulations and may incur other expenses as it may deem necessary. Investigators employed by the board shall be provided special training in investigating medical practice activities.

The Attorney General shall act as legal counsel for the board for any judicial and administrative proceedings and his or her services

shall be a charge against it.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. Section 2460 of the Business and Professions Code is amended to read:

2460. There is created within the jurisdiction of the Division of Allied Health Professions of the Medical Board of California the California Board of Podiatric Medicine.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 11. Section 2531 of the Business and Professions Code is amended to read:

2531. There is hereby created a Speech-Language Pathology and Audiology Examining Committee under the jurisdiction of the Division of Allied Health Professions of the Medical Board of California. The committee shall consist of nine members, three of whom shall be public members.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12. Article 4 (commencing with Section 2569) is added to Chapter 5.5 of Division 2 of the Business and Professions Code, to read:

Article 4. Review

2569. The powers and duties of the board, as set forth in this chapter, shall be subject to the review required by Division 1.2 (commencing with Section 473). The first review shall be performed as if this chapter were scheduled to become inoperative on July 1, 1997, and would be repealed as of January 1, 1998, as described in Section 473.1.

SEC. 13. Section 2602 of the Business and Professions Code is amended to read:

2602. There is hereby created within the jurisdiction of the Medical Board of California, a Physical Therapy Examining Committee of California, hereinafter referred to as the committee. The committee shall enforce and administer this chapter.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 14. Section 2607.5 of the Business and Professions Code is amended to read:

2607.5. The committee may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the committee and vested in him or her by this chapter.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 15. Section 2701 of the Business and Professions Code is amended to read:

2701. The California Board of Nursing Education and Nurse Registration, consisting of nine members, is continued in existence in the Department of Consumer Affairs as the Board of Registered Nursing.

Within the meaning of this chapter, board, or the board, refers to the Board of Registered Nursing. Any reference in state law to the Board of Nurse Examiners of the State of California or California Board of Nursing Education and Nurse Registration shall be construed to refer to the Board of Registered Nursing.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 16. Section 2708 of the Business and Professions Code is amended to read:

2708. The board shall appoint an executive officer who shall perform the duties delegated by the board and who shall be responsible to it for the accomplishment of those duties.

The executive officer shall be a nurse currently licensed under this chapter and shall possess other qualifications as determined by the board.

The executive officer shall not be a member of the board.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 17. Section 2841 of the Business and Professions Code is amended to read:

2841. There is in the Department of Consumer Affairs a Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, consisting of 11 members.

Within the meaning of this chapter, board, or the board, refers to the Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 18. Section 2847 of the Business and Professions Code is

amended to read:

2847. The board shall select an executive officer who shall perform such duties as are delegated by the board and who shall be responsible to it for the accomplishment of such duties.

The person selected to be the executive officer of the board shall be a duly licensed vocational nurse under the provisions of this chapter or a duly licensed professional nurse as defined in Section 2725 or a duly licensed psychiatric technician. The executive officer shall not be a member of the board.

With the approval of the Director of Finance, the board shall fix the salary of the executive officer.

The executive officer shall be entitled to traveling and other necessary expenses in the performance of his or her duties. He or she shall make a statement, certified before some duly authorized person, that the expenses have been actually incurred.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 19. Section 2920 of the Business and Professions Code is amended to read:

2920. The Board of Psychology of the Medical Board of California of the Department of Consumer Affairs shall administer this chapter. The board shall consist of eight members, three of whom shall be public members.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 20. Section 2933 of the Business and Professions Code is amended to read:

2933. Except as provided by Section 159.5, the division shall employ and shall make available to the board within the limits of the funds received by the division all personnel necessary to carry out this chapter. The board may employ, exempt from the State Civil Service Act, an executive officer to the Board of Psychology. The division shall make all expenditures to carry out this chapter. The division may accept contributions to effectuate the purposes of this chapter.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 21. Section 3010 of the Business and Professions Code is amended to read:

3010. There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of nine members, three of whom shall be public members.

Six members of the board shall constitute a quorum.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 22. Section 3014.5 of the Business and Professions Code is amended to read:

3014.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 23. Section 3320 of the Business and Professions Code is amended to read:

3320. There is within the jurisdiction of the board a Hearing Aid Dispensers Examining Committee. The committee shall consist of seven members. Four members shall be public members, one of whom shall be a licensed physician and surgeon specializing in treatment of the diseases of the ear and certified by the American Board of Otolaryngology, and another public member shall be an audiologist licensed under Chapter 5.3 (commencing with Section 2530). Each public member shall be a citizen of the United States, a resident of the State of California, and of good moral character. The remaining three members shall be, and shall have been for at least five years immediately preceding their appointment, engaged exclusively in this state in the practice of fitting or selling hearing aids to persons with impaired hearing. All hearing aid dispenser members shall be persons who hold permanent and valid licenses under this chapter.

The director or his or her deputy shall be entitled to attend all meetings of the committee, except that neither shall have the power to vote nor shall be counted for quorum purposes.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 24. Section 3504 of the Business and Professions Code is amended to read:

3504. There is established a Physician Assistant Examining Committee of the Medical Board of California. The committee consists of nine members.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 25. Section 3710 of the Business and Professions Code is

amended to read:

3710. There is hereby created within the jurisdiction of the board, a Respiratory Care Examining Committee, hereinafter referred to as the examining committee. The examining committee shall enforce and administer the provisions of this chapter.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 26. Section 3716 of the Business and Professions Code is amended to read:

3716. The examining committee may employ an executive officer exempt from civil service and, subject to the provisions of law relating to civil service, clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 27. Section 3910 of the Business and Professions Code is amended to read:

3910. There is hereby created in the Department of Consumer Affairs a State Board of Examiners of Nursing Home Administrators which shall consist of nine members, all of whom shall be citizens of the United States and residents of this state.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 28. Section 3915 of the Business and Professions Code is amended to read:

3915. The board shall elect from its membership three officers, a chairperson, a vice chairperson, and a secretary, and shall adopt rules and regulations to govern its proceedings. The chairperson, or five board members, by signed written request, may call board meetings upon written notice to each member of the board. The board at its discretion shall appoint an executive officer.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 29. Section 4000 of the Business and Professions Code is amended to read:

4000. There is in the Department of Consumer Affairs a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 10 members.

This section shall become inoperative on July 1, 1998, and, as of

January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 30. Section 4004.5 of the Business and Professions Code is amended to read:

4004.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 31. Section 4501 of the Business and Professions Code is amended to read:

4501. "Board," as used in this chapter, means the Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 32. Section 4503 of the Business and Professions Code is amended to read:

4503. The board shall administer and enforce the provisions of this chapter.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 33. Section 4800 of the Business and Professions Code is amended to read:

4800. There is in the Department of Consumer Affairs a Board of Examiners in Veterinary Medicine in which the administration of this chapter is vested. The board consists of six members, two of whom shall be public members.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 33.5. Section 4800 of the Business and Professions Code is amended to read:

4800. There is in the Department of Consumer Affairs a Veterinary Medical Board in which the administration of this chapter is vested. The board consists of six members, two of whom shall be public members.

This section shall become inoperative on July 1, 1998, and as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the

dates on which it becomes inoperative and is repealed.

SEC. 34. Section 4804.5 of the Business and Professions Code is amended to read:

4804.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 35. Section 4928 of the Business and Professions Code is amended to read:

4928. There is within the jurisdiction of the board an Acupuncture Committee which consists of 11 members.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 36. Section 4934 of the Business and Professions Code is amended to read:

4934. The board shall employ personnel necessary for the administration of this chapter; however, the committee may appoint an executive officer who is exempt from the provisions of the Civil Service Act.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 37. Article 7 (commencing with Section 4989) is added to Chapter 13 of Division 2 of the Business and Professions Code, to read:

Article 7. Review

4989. The powers and duties of the board, as set forth in this chapter, shall be subject to the review required by Division 1.2 (commencing with Section 473). The first review shall be performed as if this chapter were scheduled to become inoperative on July 1, 1999, and would be repealed as of January 1, 2000, as described in Section 473.1.

SEC. 38. Section 4990.1 of the Business and Professions Code is amended to read:

4990.1. There is in the Department of Consumer Affairs a Board of Behavioral Science Examiners which consists of 11 members.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 39. Section 4990.8 of the Business and Professions Code is amended to read:

4990.8. The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 40. Section 5000 of the Business and Professions Code is amended to read:

5000. There is in the Department of Consumer Affairs a State Board of Accountancy, which consists of 12 members, seven of whom shall be certified public accountants, one of whom shall be a public accountant, and four of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.

The Governor shall appoint two of the public members and the eight accountant members qualified as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member. In appointing the seven certified public accountant members, the Governor shall appoint members representing a cross section of the accounting profession with at least one member representing a small public accounting firm. For the purposes of this chapter, a small public accounting firm shall be defined as a professional firm that employs a total of no more than four certified public accountants as partners, owners, or full-time employees in the practice of public accountancy within the State of California.

This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 41. Section 5015.6 of the Business and Professions Code is amended to read:

5015.6. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 42. Section 5510 of the Business and Professions Code is amended to read:

5510. There is in the Department of Consumer Affairs a California Board of Architectural Examiners which consists of 10 members.

This section shall become inoperative on July 1, 1998, and, as of

January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 43. Section 5517 of the Business and Professions Code is amended to read:

5517. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 44. Section 5620 of the Business and Professions Code is amended to read:

5620. There is in the Department of Consumer Affairs a California State Board of Landscape Architects which shall consist of seven members. The membership of the board shall at all times consist of one member who is a resident of, and practices landscape architecture in southern California and one member who is a resident of, and practices landscape architecture in northern California. Three members of the board shall be licensed to practice landscape architecture in this state. The other four shall be public members who shall not be licentiates of the board.

This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 45. Section 5624 of the Business and Professions Code is amended to read:

5624. The board shall elect from its members a president to hold office for one year. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The executive officer shall hold the office at the pleasure of the board and shall receive a salary fixed by the board with the approval of the Director of Finance.

This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 45.5. Section 5810 is added to the Business and Professions Code, to read:

5810. This chapter shall be subject to the review required by Division 1.2 (commencing with Section 473). The first review shall be performed in conjunction with those boards scheduled to become inoperative on July 1, 1997.

This chapter shall become inoperative on July 1, 1997, and, as of

January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 46. Section 6710 of the Business and Professions Code is amended to read:

6710. There is in the Department of Consumer Affairs a State Board of Registration for Professional Engineers and Land Surveyors, which consists of 13 members.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 47. Section 6714 of the Business and Professions Code is amended to read:

6714. The board shall appoint an executive officer at a salary to be fixed and determined by the board with the approval of the Director of Finance.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 48. Section 7000.5 of the Business and Professions Code is amended to read:

7000.5. There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 13 members.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 49. Section 7011 of the Business and Professions Code is amended to read:

7011. The board by and with the approval of the director shall appoint a registrar of contractors and fix his or her compensation.

The registrar shall be the executive officer and secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to him or her by the board.

For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer and, subject to the provisions of Section 159.5, other assistants and subordinates as may be necessary.

Appointments shall be made in accordance with the provisions of civil service laws.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 50. Section 7200 of the Business and Professions Code is amended to read:

7200. There is in the Department of Consumer Affairs a State

Board of Guide Dogs for the Blind in whom enforcement of this chapter is vested. The board shall consist of seven members appointed by the Governor. One member shall be the Director of Rehabilitation or his or her designated representative. The remaining members shall be persons who have shown a particular interest in dealing with the problems of the blind, and at least two of them shall be blind persons who use guide dogs.

This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 51. Section 7302 of the Business and Professions Code is amended to read:

7302. There is in the Department of Consumer Affairs a State Board of Barbering and Cosmetology which consists of nine members. The members of the board shall consist of five public members and four members representing the professions.

Wherever in this chapter "board" is used it refers to the State Board of Barbering and Cosmetology.

This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 52. Section 7310 of the Business and Professions Code is amended to read:

7310. (a) The board shall appoint an executive officer exempt from civil service, who shall not be a board member, who shall exercise the powers and perform the duties delegated by the board and vested in that person by this chapter.

(b) The board shall also have the authority to employ a deputy executive officer.

(c) The board's appointment of an executive officer shall be subject to confirmation by the Director of Consumer Affairs. The director may reject the board's appointment of its executive officer, or may recommend dismissal of the executive officer to the board, provided that the rejection or recommendation for dismissal be for good cause specifically stated to the board in writing.

(d) The executive officer shall employ examiners, inspectors and all other personnel as necessary to carry out this chapter. Their compensation, and all expenses incurred by the board, shall be paid exclusively from the special funds received by the board.

(e) The board shall employ through its executive officer sufficient inspectors to ensure that the health and safety of consumers is met.

(f) The board shall prescribe through its executive officer the qualifications and duties of its employees in accordance with established civil service guidelines and collective bargaining agreements.

(g) This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which

becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 53. Section 7601 of the Business and Professions Code is amended to read:

7601. There is in the Department of Consumer Affairs the State Board of Funeral Directors and Embalmers which consists of five members, two of whom shall be licentiates of the board, and three of whom shall be public members.

This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 54. Section 7607.5 of the Business and Professions Code is amended to read:

7607.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 55. Section 7801 of the Business and Professions Code is amended to read:

7801. "Board," as used in this chapter, means the State Board of Registration for Geologists and Geophysicists.

This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 56. Section 7815.5 of the Business and Professions Code is amended to read:

7815.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 57. Section 8000 of the Business and Professions Code is amended to read:

8000. There is in the Department of Consumer Affairs a Court Reporters Board of California, which consists of five members, three of whom shall be public members and two of whom shall be holders of certificates issued under this chapter who have been actively engaged as shorthand reporters within this state for at least five years immediately preceding their appointment.

This section shall become inoperative on July 1, 1997, and, as of

January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 58. Section 8005 of the Business and Professions Code is amended to read:

8005. The Court Reporters Board of California is charged with the executive functions necessary for effectuating the purposes of this chapter. It may appoint committees as it deems necessary or proper. The board may appoint, prescribe the duties, and fix the salary of an executive officer. Except as provided by Section 159.5, the board may also employ other employees as may be necessary, subject to civil service and other provisions of law.

This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 59. Section 8520 of the Business and Professions Code is amended to read:

8520. There is in the Department of Consumer Affairs a Structural Pest Control Board, which consists of seven members.

Subject to the jurisdiction conferred upon the director by Division 1 (commencing with Section 100) of this code, the board is vested with the power to and shall administer the provisions of this chapter.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 60. Section 8528 of the Business and Professions Code is amended to read:

8528. With the approval of the director, the board shall appoint a registrar, fix his or her compensation and prescribe his or her duties.

The registrar is the executive officer and secretary of the board.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 61. Section 8710 of the Business and Professions Code is amended to read:

8710. The State Board of Registration for Professional Engineers and Land Surveyors is vested with power to administer the provisions and requirements of this chapter, and may make and enforce rules and regulations which are reasonably necessary to carry out its provisions.

This section shall become inoperative on July 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 62. Section 9625 of the Business and Professions Code is

amended to read:

9625. There is in the department a Cemetery Board which consists of six members, including four members representing the public at large.

Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired.

The Governor shall appoint two of the public members and the two members qualified as provided in Section 9626 with confirmation of the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

This section shall become inoperative on July 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 63. Article 17 (commencing with Section 18890) is added to Chapter 2 of Division 8 of the Business and Professions Code, to read:

Article 17. Review

18890. This chapter shall be subject to the review required by Division 1.2 (commencing with Section 473). The first review shall be performed as if this chapter, establishing the Athletic Commission, were scheduled to become inoperative on July 1, 1997, and would be repealed as of January 1, 1998, as described in Section 473.1.

SEC. 64. The heading of Article 8 (commencing with Section 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code is amended to read:

Article 8. Legislative Oversight of State Board Formation and Licensed Professional Practice

SEC. 65. Section 9148 of the Government Code is amended to read:

9148. Any state board proposed for creation by the Legislature on or after January 1, 1991, or any category of licensed professional proposed for creation by the Legislature on or after January 1, 1995, shall be subject to this article.

SEC. 66. Section 9148.4 of the Government Code is amended to read:

9148.4. Prior to consideration by the Legislature of legislation creating a new state board or legislation creating a new category of licensed professional, a plan for the establishment and operation of the proposed state board or new category of licensed professional shall be developed by the author or sponsor of the legislation. The

plan shall include, but not be limited to, all of the following:

(a) A description of the problem that the creation of the specific state board or new category of licensed professional would address, including the specific evidence of need for the state to address the problem.

(b) The reasons why this proposed state board or new category of licensed professional was selected to address this problem, including the full range of alternatives considered and the reason why each of these alternatives was not selected. Alternatives that shall be considered include, but are not limited to, the following:

(1) No action taken to establish a state board or create a new category of licensed professional.

(2) The use of a current state board or agency or the existence of a current category of licensed professional to address the problem, including any necessary changes to the mandate or composition of the existing state board or agency or current category of licensed professional.

(3) The various levels of regulation or administration available to address the problem.

(4) Addressing the problem by federal or local agencies.

(c) The specific public benefit or harm that would result from the establishment of the proposed state board or new category of licensed professional, the specific manner in which the proposed state board or new category of licensed professional would achieve this benefit, and the specific standards of performance which shall be used in reviewing the subsequent operation of the board or category of licensed professional.

(d) The specific source or sources of revenue and funding to be utilized by the proposed state board or new category of licensed professional in achieving its mandate.

(e) The necessary data and other information required in this section shall be provided to the Legislature with the initial legislation and forwarded to the policy committees in which the bill will be heard.

SEC. 67. Section 9148.10 of the Government Code is amended to read:

9148.10. Any state board or category of licensed professional under this article shall be subject to the following:

(a) The Joint Legislative Budget Committee shall establish criteria and review processes for the operational review of each state board or category of licensed professional. The criteria and review processes shall include, but not be limited to, all of the following:

(1) An assessment of whether the initial problem or condition which led to establishment of the state board or category of licensed professional being reviewed still exists to such a degree as to require the continued existence of that agency or category of licensed professional.

(2) An assessment of other similar conditions which have arisen and the manner in which they have been addressed.

(3) An assessment of the agency's or licensing category's current and original scope of authority and functions, and the justification for any change.

(4) A full cost-benefit analysis of the state board's or licensing category's operation on a year-by-year basis since its establishment or prior review under this article.

(b) The committee shall identify all state boards or categories of licensed professionals subject to review under this article and establish a schedule for review of these state boards or categories of licensed professionals. In no case shall any state board or category of licensed professional be allowed to operate for more than eight years after the initial date of its enactment without being subject to review under this article.

SEC. 68. Section 33.5 of this bill incorporates amendments to Section 4800 of the Business and Professions Code proposed by both this bill and SB 1821. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 4800 of the Business and Professions Code, and (3) this bill is enacted after SB 1821, in which case Section 33 of this bill shall not become operative.

CHAPTER 909

An act to amend Section 1714.1 of the Civil Code, to amend Section 53069.3 of the Government Code, to amend Sections 594, 594.4, 594.6, 594.7, 640.5, and 640.6 of the Penal Code, to amend Section 13202.6 of the Vehicle Code, and to add Article 18.5 (commencing with Section 742.10) to Chapter 2 of Part 1 of Division 2 of, and to repeal Section 728 of, the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 1714.1 of the Civil Code is amended to read:

1714.1. (a) Any act of willful misconduct of a minor which results in injury or death to another person or in any injury to the property of another shall be imputed to the parent or guardian having custody and control of the minor for all purposes of civil damages, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct.

Subject to the provisions of subdivision (c), the joint and several liability of the parent or guardian having custody and control of a minor under this subdivision shall not exceed twenty-five thousand dollars ($25,000) for each tort of the minor, and in the case of injury to a person, imputed liability shall be further limited to medical,

dental and hospital expenses incurred by the injured person, not to exceed twenty-five thousand dollars ($25,000). The liability imposed by this section is in addition to any liability now imposed by law.

(b) Any act of willful misconduct of a minor which results in the defacement of property of another with paint or a similar substance shall be imputed to the parent or guardian having custody and control of the minor for all purposes of civil damages, including court costs, and attorney's fees, to the prevailing party, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct, not to exceed twenty-five thousand dollars ($25,000), except as provided in subdivision (c), for each tort of the minor.

(c) The amounts listed in subdivisions (a) and (b) shall be adjusted every two years by the Judicial Council to reflect any increases in the cost of living in California, as indicated by the annual average of the California Consumer Price Index. The Judicial Council shall round this adjusted amount up or down to the nearest hundred dollars. On or before January 1, 1997, and on or before January 1 of each odd-numbered year thereafter, the Judicial Council shall compute and publish the amounts listed in subdivisions (a) and (b), as adjusted according to this subdivision.

(d) The maximum liability imposed by this section is the maximum liability authorized under this section at the time that the act of willful misconduct by a minor was committed.

(e) Nothing in this section shall impose liability on an insurer for a loss caused by the willful act of the insured for purposes of Section 533 of the Insurance Code. An insurer shall not be liable for the conduct imputed to a parent or guardian by this section for any amount in excess of ten thousand dollars ($10,000).

SEC. 2. Section 53069.3 of the Government Code is amended to read:

53069.3. A city, county, or city and county may enact an ordinance to provide for the use of city or county funds to remove graffiti or other inscribed material from public or privately owned property within that city, county, or city and county and to replace or repair public or privately owned property within that city, county, or city and county that has been defaced with graffiti or other inscribed material that cannot be removed cost effectively.

That ordinance shall authorize only the removal of the graffiti or other inscribed material itself, or, if the graffiti or other inscribed material cannot be removed cost-effectively, the repair or replacement of the portion of the property that was defaced, and not the painting, repair, or replacement of other parts of the property that were not defaced.

The removal, repair, or replacement may be performed only after a finding by the city, county, or city and county that the graffiti or other inscribed material is obnoxious, and, in the case of publicly owned property, only after securing the consent of the public entity having jurisdiction over the property, and in the case of privately

owned property, only after securing the consent of the owner or possessor.

The law enforcement agency with primary jurisdiction in a city, county, or city and county which enacts an ordinance pursuant to this section may promulgate procedures for preremoval preservation of sufficient evidence of the graffiti or other inscribed material for criminal prosecutions or proceedings pursuant to Section 602 of the Welfare and Institutions Code pertaining to the person or persons who inscribed the graffiti or other material. These procedures shall be followed by the city, county, or city and county prior to or during removal of graffiti or other inscribed material.

As used in this section, "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on any real or personal property.

This section does not preclude the abatement of graffiti or other inscribed material as a nuisance pursuant to Section 25845 or 38773.5, or the enactment or enforcement of any criminal law with respect to nuisance.

SEC. 3. Section 594 of the Penal Code is amended to read:

594. (a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:

(1) Defaces with graffiti or other inscribed material.

(2) Damages.

(3) Destroys.

Whenever a person violates paragraph (1) with respect to real property belonging to any public entity, as defined by Section 811.2 of the Government Code, or real property belonging to the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.

(b) (1) If the amount of defacement, damage, or destruction is fifty thousand dollars ($50,000) or more, vandalism is punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine of not more than fifty thousand dollars ($50,000), or by both that fine and imprisonment.

(2) If the amount of defacement, damage, or destruction is five thousand dollars ($5,000) or more but less than fifty thousand dollars ($50,000), vandalism is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

(3) If the amount of defacement, damage, or destruction is four hundred dollars ($400) or more but less than five thousand dollars ($5,000), vandalism is punishable by imprisonment in a county jail not exceeding one year, or by a fine of five thousand dollars ($5,000), or by both that fine and imprisonment.

(4) If the amount of defacement, damage, or destruction is less than four hundred dollars ($400), vandalism is punishable by imprisonment in a county jail for not more than six months, or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(c) Upon conviction of any person under this section for acts of vandalism consisting of defacing property with graffiti or other inscribed materials, the court may, in addition to any punishment imposed under subdivision (b), at the victim's option, order the defendant to clean up, repair, or replace the damaged property himself or herself, or to pay for someone else to do so.

(d) If a minor is personally unable to pay a fine levied for acts prohibited by this section, the parent of that minor shall be liable for payment of the fine. A court may waive payment of the fine or any part thereof by the parent upon a finding of good cause.

(e) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

SEC. 4. Section 594.4 of the Penal Code is amended to read:

594.4. (a) Any person who willfully and maliciously injects into or throws upon, or otherwise defaces, damages, destroys, or contaminates, any structure with butyric acid, or any other similar noxious or caustic chemical or substance, is guilty of a public offense, punishable by imprisonment in the state prison or in a county jail, by a fine as specified in subdivision (b), or by both that imprisonment and fine.

(b) (1) If the amount of the defacement, damage, destruction, or contamination is fifty thousand dollars ($50,000) or more, by a fine of not more than fifty thousand dollars ($50,000).

(2) If the amount of the defacement, damage, destruction, or contamination is five thousand dollars ($5,000) or more, but less than fifty thousand dollars ($50,000), by a fine of not more than ten thousand dollars ($10,000).

(3) If the amount of defacement, damage, destruction, or contamination is four hundred dollars ($400) or more, but less than five thousand dollars ($5,000), by a fine of not more than five thousand dollars ($5,000).

(4) If the amount of the defacement, damage, destruction, or contamination is less than four hundred dollars ($400), by a fine of not more than one thousand dollars ($1,000).

(c) For purposes of this section, "structure" includes any house or other building being used at the time of the offense for a dwelling or for commercial purposes.

SEC. 5. Section 594.6 of the Penal Code is amended to read:

594.6. Every person who, having been convicted previously of vandalism or affixing graffiti or other inscribed material under Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7, or any combination of these offenses, on two separate occasions, and having been

incarcerated pursuant to a sentence, a conditional sentence, or a grant of probation for at least one of the convictions, is subsequently convicted of vandalism under Section 594, may be ordered by the court as a condition of probation to perform community service not to exceed 300 hours over a period not to exceed 240 days during a time other than during his or her hours of school attendance or employment.

SEC. 6. Section 594.7 of the Penal Code is amended to read:

594.7. Notwithstanding subdivision (b) of Section 594, every person who, having been convicted previously of vandalism under Section 594 for maliciously defacing with graffiti or other inscribed material any real or personal property not his or her own on two separate occasions and having been incarcerated pursuant to a sentence, a conditional sentence, or a grant of probation for at least one of the convictions, is subsequently convicted of vandalism under Section 594, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison.

SEC. 7. Section 640.5 of the Penal Code is amended to read:

640.5. (a) Any person who defaces with graffiti or other inscribed material the interior or exterior of the facilities or vehicles of a governmental entity, as defined by Section 811.2 of the Government Code, or the interior or exterior of the facilities or vehicles of a public transportation system as defined by Section 99211 of the Public Utilities Code, or the interior or exterior of the facilities of or vehicles operated by entities subsidized by the Department of Transportation or the interior or exterior of any leased or rented facilities or vehicles for which any of the above entities incur costs of less than two hundred fifty dollars ($250) for cleanup, repair, or replacement is guilty of an infraction, punishable by a fine not to exceed five hundred dollars ($500) and by a minimum of 24 hours of community service for a total time not to exceed 100 hours over a period not to exceed 90 days, during a time other than during his or her hours of school attendance or employment. This subdivision does not preclude application of Section 594.

(b) If the person has been convicted previously of an infraction under subdivision (a) or has a prior conviction of Section 594, 594.3, 594.4, 640.6, or 640.7, the offense is a misdemeanor, punishable by imprisonment in a county jail not to exceed six months, by a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine. As a condition of probation, the court shall order the defendant to perform a minimum of 48 hours of community service not to exceed 200 hours over a period not to exceed 180 days during a time other than during his or her hours of school attendance or employment.

(c) Every person who, having been convicted previously under this section or Section 594, 594.3, 594.4, 640.6, or 640.7, or any combination of these offenses, on two separate occasions, and having been incarcerated pursuant to a sentence, a conditional sentence, or a grant of probation for at least one of the convictions, is subsequently

convicted under this section, shall be punished by imprisonment in a county jail not to exceed one year. As a condition of probation, the court may order the defendant to perform community service not to exceed 300 hours over a period not to exceed 240 days during a time other than during his or her hours of school attendance or employment.

(d) (1) Upon conviction of any person under subdivision (a), the court, in addition to any punishment imposed pursuant to subdivision (a), (b), or (c), at the victim's option, may order the defendant to perform the necessary labor to clean up, repair, or replace the property damaged by that person.

(2) If a minor is personally unable to pay any fine levied for violating subdivision (a), (b), or (c), the parent or legal guardian of the minor shall be liable for payment of the fine. A court may waive payment of the fine or any part thereof by the parent or legal guardian upon a finding of good cause.

(e) Any fine levied for a violation of subdivision (a), (b), or (c) shall be credited by the county treasurer pursuant to Section 1463.29 to the governmental entity having jurisdiction over, or responsibility for, the facility or vehicle involved, to be used for removal of the graffiti or other inscribed material or replacement or repair of the property defaced by the graffiti or other inscribed material. Before crediting these fines to the appropriate governmental entity, the county may determine the administrative costs it has incurred pursuant to this section, and retain an amount equal to those costs.

Any community service which is required pursuant to subdivision (a), (b), or (c) of a person under the age of 18 years may be performed in the presence, and under the direct supervision, of the person's parent or legal guardian.

(f) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

SEC. 8. Section 640.6 of the Penal Code is amended to read:

640.6. (a) Except as provided in Section 640.5, any person who defaces with graffiti or other inscribed material any real or personal property not his or her own, when the amount of the defacement, damage, or destruction is less than two hundred fifty dollars ($250), is guilty of an infraction, punishable by a fine not to exceed five hundred dollars ($500). This subdivision does not preclude application of Section 594.

In addition to the penalty set forth in this section, the court shall order the defendant to perform a minimum of 24 hours of community service not to exceed 100 hours over a period not to exceed 90 days during a time other than during his or her hours of school attendance or employment.

(b) If the person has been convicted previously of an infraction under subdivision (a) or has a prior conviction of Section 594, 594.3, 594.4, 640.5, or 640.7, the offense is a misdemeanor, punishable by not

to exceed six months in a county jail, by a fine not to exceed one thousand dollars ($1,000), or by both that imprisonment and fine. As a condition of probation, the court shall order the defendant to perform a minimum of 48 hours of community service not to exceed 200 hours over a period not to exceed 180 days during a time other than during his or her hours of school attendance or employment.

(c) Every person who, having been convicted previously under this section or Section 594, 594.3, 594.4, 640.5, or 640.7, or any combination of these offenses, on two separate occasions, and having been incarcerated pursuant to a sentence, a conditional sentence, or a grant of probation for at least one of the convictions, is subsequently convicted under this section, shall be punished by imprisonment in a county jail not to exceed one year. As a condition of probation, the court may order the defendant to perform community service not to exceed 300 hours over a period not to exceed 240 days during a time other than during his or her hours of school attendance or employment.

(d) Upon conviction of any person under subdivision (a), the court, in addition to any punishment imposed pursuant to subdivision (a), (b), or (c), at the victim's option, may order the defendant to perform the necessary labor to clean up, repair, or replace the property damaged by that person.

(e) If a minor is personally unable to pay any fine levied for violating subdivision (a), (b), or (c), the parent or legal guardian of the minor shall be liable for payment of the fine. A court may waive payment of the fine or any part thereof by the parent or legal guardian upon a finding of good cause.

Any community service which is required pursuant to subdivision (a), (b), or (c) of a person under the age of 18 years may be performed in the presence, and under the direct supervision, of the person's parent or legal guardian.

(f) As used in this section, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

SEC. 9. Section 13202.6 of the Vehicle Code is amended to read:

13202.6. (a) (1) For every conviction of a person for a violation of Section 594, 594.3, or 594.4 of the Penal Code, committed while the person was 13 years of age or older, the court may suspend the person's driving privilege for one year. If the person convicted does not yet have the privilege to drive, the court may order the department to delay issuing the privilege to drive for one year subsequent to the time the person becomes legally eligible to drive. However, if there is no further conviction for violating Section 594, 594.3, or 594.4 of the Penal Code in a 12-month period after the conviction, the court, upon petition of the person affected, may modify the order imposing the delay of the privilege. For each successive offense, the court shall suspend the person's driving privilege for those possessing a license or delay the eligibility for

those not in possession of a license at the time of their conviction for one additional year.

(2) Any person whose driving privilege is suspended or delayed for an act involving vandalism in violation of Section 594, 594.3, or 594.4 of the Penal Code, may elect to reduce the period of suspension or delay imposed by the court by performing community service under the supervision of the probation department. The period of suspension or delay ordered under paragraph (1) shall be reduced at the rate of one day for each hour of community service performed. For purposes of this paragraph, "community service" means cleaning up graffiti from any public property, including public transit vehicles.

(3) As used in this section, the term "conviction" includes the findings in juvenile proceedings specified in Section 13105.

(b) (1) Whenever the court suspends driving privileges pursuant to subdivision (a), the court in which the conviction is had shall require all drivers' licenses held by the person to be surrendered to the court. The court shall, within 10 days following the conviction, transmit a certified abstract of the conviction, together with any drivers' licenses surrendered, to the department.

(2) Violations of restrictions imposed pursuant to this section are subject to Section 14603.

(c) When the court is considering suspending or delaying driving privileges pursuant to subdivision (a), the court shall consider if a personal or family hardship exists that requires the person to have a driver's license for his or her own, or a member of his or her family's, employment or medically related purposes.

(d) The suspension, restriction, or delay of driving privileges pursuant to this section shall be in addition to any penalty imposed upon conviction of any violation of Section 594, 594.3, or 594.4 of the Penal Code.

SEC. 10. Section 728 of the Welfare and Institutions Code is repealed.

SEC. 11. Article 18.5 (commencing with Section 742.10) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

Article 18.5. Graffiti Removal and Damage Recovery Program

742.10. It is the intent of the Legislature in enacting this article to accomplish the following purposes:

(a) To assist public and private owners and possessors of property defaced by minors with graffiti or other inscribed material to recover their full damages.

(b) To safeguard the fiscal integrity of cities and counties that expend public funds to remove graffiti and other material inscribed by minors from public or private property, or to repair or replace public or private property defaced by minors with graffiti or other inscribed material, by enabling those cities and counties to recoup

the full costs of that removal, repair, and replacement.

(c) To safeguard the fiscal integrity of cities and counties by enabling them to recoup the law enforcement costs of identifying and apprehending minors who deface the property of others with graffiti or other inscribed material.

(d) To minimize the costs of collecting those costs and damages.

(e) To discourage the inscription of graffiti and other material by minors by requiring the offending minors, and their parents who have the financial ability to do so, to bear the costs associated with the unlawful defacement of property with graffiti or other inscribed material.

(f) To retain in the juvenile court the discretion needed to accomplish the goal of rehabilitating minors.

742.12. (a) As used in this article, the term "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on real or personal property.

(b) As used in subdivision (d) of Section 742.16, the word "custody" means either legal custody or physical custody of a minor.

742.14. (a) A city, county, or city and county may elect, by ordinance, to have the probation officer of the county recoup for it, through juvenile court proceedings in accordance with Section 742.16, its costs associated with defacement by minors of its property and the property of others by graffiti or other inscribed material. That ordinance shall include the cost finding or findings specified in subdivision (b), and if the city, county, or city and county enacts an ordinance pursuant to Section 53069.3 of the Government Code, the cost findings specified in subdivision (c). These cost findings shall be reviewed at least once every three years, at which time the city, county, or city and county, by resolution, shall adopt updated cost findings in accordance with subdivisions (b) and (c). A city, county, or city and county may rescind, by ordinance, its election to have the probation officer recoup its costs pursuant to this section. Immediately after adoption, the city or county shall cause a certified copy of an ordinance adopted pursuant to this subdivision and any resolution containing updated cost findings to be forwarded to the clerk of the juvenile court in the county and to the probation officer of the county.

(b) A city, county, or city and county that adopts an ordinance pursuant to subdivision (a) shall include therein a finding or findings, to be reviewed at least once every three years, of the average costs per unit of measure incurred by the law enforcement agency with primary jurisdiction in the city, county, or city and county in identifying and apprehending a person subsequently convicted of violation of Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code or a minor subsequently found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code. A city, county, or city and county that does not adopt an ordinance

pursuant to subdivision (a) may adopt an ordinance containing the cost finding or findings described in this subdivision. Findings of costs per unit of measure may include, but are not limited to, findings of the hourly costs of employee time and of the costs per mile of operating patrol vehicles.

(c) If a city, county, or city and county enacts an ordinance pursuant to Section 53069.3 of the Government Code and enacts an ordinance pursuant to subdivision (a), the ordinance enacted pursuant to subdivision (a) shall contain findings, to be reviewed at least once every three years, of the average cost to the city, county, or city and county per unit of measure of removing graffiti and other inscribed material, and of repairing and replacing property of the types frequently defaced with graffiti or other inscribed material that cannot be removed cost effectively. A city, county, or city and county that does not adopt an ordinance pursuant to subdivision (a) may adopt an ordinance containing the cost findings described in this subdivision. Findings of costs per unit of measure may include, but are not limited to, findings of the costs per square inch of removing painted graffiti or of the costs per item of replacing items that have been etched.

(d) A school district, district, or other local public agency may elect, by formal action of its governing body, to have the probation officer of the county recoup for it, through juvenile court proceedings in accordance with Section 742.16, its costs associated with the defacement by minors of property it owns or possesses by graffiti or other inscribed material. Upon election, the school district, district, or other local public agency shall make the cost findings described in subdivision (c). These cost findings shall be reviewed at least once every three years, at which time the school district, district, or other local public agency, by formal action of its governing body, shall adopt updated cost findings in accordance with subdivision (c). A school district, district, or other local public agency may rescind, by resolution, its election to have the probation officer recoup its costs pursuant to this section. Immediately after making the election described in this subdivision and adopting initial or updated cost findings, and immediately after rescinding said election, the school district, district, or other local public agency shall cause a certified copy of a document memorializing the election, rescission, or cost findings to be forwarded to the clerk of the juvenile court in the county and to the probation officer of the county. A school district, district, or other local public agency that does not elect to have the probation officer of the county recoup its costs pursuant to Section 742.16 may adopt the cost findings described in this subdivision.

(e) A city, county, or city and county that has elected to have the probation officer of the county recoup its costs pursuant to Section 742.16 shall transmit to the probation officer, forthwith, data about its expenditure of resources in identifying and apprehending any minor about whom a petition is filed alleging that the minor is a

person described by Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code. That data shall be sufficient to enable the probation officer and the juvenile court to calculate the costs to the city, county, or city and county in identifying and apprehending the minor.

(f) A city, county, or other public agency that has elected to have the probation officer of the county recoup its costs pursuant to Section 742.16 and that has made cost findings pursuant to subdivisions (c) or (d) shall transmit to the probation officer, forthwith, data about its expenditure of resources to remove graffiti or other material inscribed by, or to repair or replace property defaced by, any minor about whom a petition is filed alleging that the minor is a person described by Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code. That data shall be sufficient to enable the probation officer and the juvenile court to calculate the costs to the city, county, or other local agency for that removal, repair, or replacement.

(g) The probation officer of a county may establish procedures for collecting the data described in subdivision (e) and (f). These procedures may include a provision that the juvenile court may not award and the probation officer may refuse to collect costs described in this section unless the data required to be provided to the probation officer pursuant to subdivisions (e) and (f) is provided to him or her within a time certain after he or she makes a demand therefor.

742.16. (a) If a minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6 or 640.7 of the Penal Code, and the court does not remove the minor from the physical custody of the parent or guardian, the court as a condition of probation, except in any case in which the court makes a finding and states on the record its reasons why that condition would be inappropriate, shall require the minor to wash, paint, repair, or replace the property defaced, damaged, or destroyed by the minor or otherwise pay restitution to the probation officer of the county for disbursement to the owner or possessor of the property or both. In any case in which the minor is not granted probation or in which the minor's cleanup, repair, or replacement of the property will not return the property to its condition before it was defaced, damaged, or destroyed, the court shall make a finding of the amount of restitution that would be required to fully compensate the owner and possessor of the property for their damages. The court shall order the minor or the minor's estate to pay that restitution to the probation officer of the county for disbursement to the owner or possessor of the property or both, to the extent the court determines that the minor or his estate have the ability to do so, except in any case in which the court makes a finding and states on the record its reasons why full restitution would be inappropriate. If full restitution is found to be inappropriate, the

court, shall require the minor to perform specified community service, except in any case in which the court makes a finding and states on the record its reasons why that condition would be inappropriate.

(b) If a minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the graffiti or other material inscribed by the minor has been removed, or the property defaced by the minor has been repaired or replaced by a public entity that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section and has made cost findings in accordance with subdivisions (c) or (d) of Section 742.14, the court shall determine the total cost incurred by the public entity for said removal, repair, or replacement, using, if applicable, the cost findings most recently adopted by the public entity pursuant to subdivision (c) or (d) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate have the ability to do so.

(c) If the minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code and the minor was identified or apprehended by the law enforcement agency of a city or county that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section, the court shall determine the cost of identifying or apprehending the minor, or both, using, if applicable, the cost findings adopted by the city or county pursuant to subdivision (b) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate have the ability to do so.

(d) If the court determines that the minor or the minor's estate is unable to pay in full the costs and damages determined pursuant to subdivisions (a), (b), and (c), and if the minor's parent or parents have been cited into court pursuant to Section 742.18, the court shall hold a hearing to determine the liability of the minor's parent or parents pursuant to Section 1714.1 of the Civil Code for those costs and damages. Except when the court makes a finding setting forth unusual circumstances in which parental liability would not serve the interests of justice, the court shall order the minor's parent or parents to pay those costs and damages to the probation officer of the county to the extent the court determines that the parent or parents have the ability to pay, if the minor was in the custody or control of the parent or parents at the time he or she committed the act that forms the basis for the finding that the minor is a person described in Section 602. In evaluating the parent's or parents' ability to pay, the court shall take into consideration the family income, the necessary

obligations of the family, and the number of persons dependent upon this income.

(e) The hearing described in subdivision (d) may be held immediately following the disposition hearing or at a later date, at the option of the court.

(f) If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) is five thousand dollars ($5,000) or less, the parent or parents may not be represented by counsel and the probation officer of the county shall be represented by his or her nonattorney designee. The court shall conduct such a hearing in accordance with Sections 116.510 and 116.520 of the Code of Civil Procedure. Notwithstanding the foregoing, if the court determines that a parent cannot properly present his or her defense, the court may, in its discretion, allow another individual to assist that parent. In addition, a husband or wife may appear and participate in the hearing on behalf of his or her spouse if the representative's spouse has given his or her consent and the court determines that the interest of justice would be served thereby.

(g) If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) exceeds five thousand dollars ($5,000), the parent or parents may be represented by counsel of his or her or their own choosing, and the probation officer of the county shall be represented by the district attorney or an attorney or nonattorney designee of the probation officer. The parent or parents shall not be entitled to court-appointed counsel or to counsel compensated at public expense.

(h) At the hearing conducted pursuant to subdivision (d), there shall be a presumption affecting the burden of proof that the findings of the court made pursuant to subdivisions (a), (b), and (c) represent the actual damages and costs attributable to the act of the minor that forms the basis of the finding that the minor is a person described in Section 602.

(i) If the parent or parents after having been cited to appear pursuant to Section 742.18, fail to appear as ordered, the court shall order the parent or parents to pay the full amount of the costs and damages determined by the court pursuant to subdivisions (a), (b), and (c).

(j) Execution may be issued on an order issued by the court pursuant to this section in the same manner as on a judgment in a civil action, including any balance unpaid at the termination of the court's jurisdiction over the minor.

(k) At any time prior to the satisfaction of a judgment entered pursuant to this section, a person against whom the judgment was entered may petition the rendering court to modify or vacate the judgment on the showing of a change in circumstances relating to his or her ability to pay the judgment.

(*l*) For purposes of a hearing conducted pursuant to subdivision (d), the judge of the juvenile court shall have the jurisdiction of a judge of the municipal court, and where the amount of the demand

is five thousand dollars ($5,000) or less, the judge of the juvenile court shall have the powers of a judge presiding over the small claims court.

(m) Nothing in this section shall be construed to limit the authority of a juvenile court to provide conditions of probation.

(n) The options available to the court pursuant to subdivisions (a), (b), (c), (d), and (k), to order payment by the minor and his or her parent or parents of less than the full costs described in subdivisions (a), (b), and (c), on grounds of financial inability or for reasons of justice, shall not be available to a municipal court in an ordinary civil proceeding pursuant to subdivision (b) of Section 1714.1 of the Civil Code, except that in any proceeding pursuant to either subdivision (b) of Section 1714.1 of the Civil Code or this section, the maximum amount that a parent or a minor may be ordered to pay shall not exceed twenty thousand dollars ($20,000) for each tort of the minor.

742.18. (a) If the petition alleges that the minor is the person described by Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the petition is sustained, the court, in addition to the notice provided in Sections 658 and 659, shall issue a citation to the minor's parent or legal guardian, ordering them to appear in the court at the time and date stated for a hearing pursuant to subdivision (d) of Section 742.16.

(b) The citation shall notify the parent or legal guardian that at the hearing, he, she, or they may be ordered to pay restitution sufficient to fully compensate the owner and possessor of the property defaced by the minor for the damage caused by that defacement, the law enforcement costs of identifying and apprehending the minor, if applicable, and the costs incurred by a public entity to remove graffiti or other material inscribed by the minor, or to repair or replace the property defaced by the minor, if applicable. The citation shall set forth the provisions of Section 742.16 and shall advise the parent or parents that he, she, or they may be ordered to pay an amount not exceeding twenty thousand dollars ($20,000) for the above-referenced damages and costs. The citation shall contain a warning to the parent or parents that if he, she, or they fail to appear at the time and date stated, the court will order him, her, or them to pay in full the costs and damages caused by the act of the minor.

(c) Service of the citation shall be made on all parents or legal guardians of the minor whose names and addresses are known to the petitioner.

(d) Service of the citation shall be made at least 10 days prior to the time and date stated therein for appearance, in the manner provided by law for the service of a summons in a civil action, other than by publication.

742.20. Any moneys collected by the probation officer of the county pursuant to an order rendered pursuant to Section 742.16

shall be distributed by the county to the following persons and entities in the following priority:

(a) Restitution to the owner and possessor of the property defaced by the minor, in the amount determined by the court.

(b) After the restitution described in subdivision (a) has been paid in full, or if restitution was not ordered, the costs of removing graffiti or other material inscribed by the minor and of repairing or replacing property defaced by the minor, to the city, county, or other local public agency that incurred those costs, except that the county may deduct and retain 15 percent of the amount collected for the removal, repair, or replacement costs, or an amount equivalent to its actual costs of collection, whichever is less.

(c) After the costs and damages described in subdivisions (a) and (b) have been paid in full, or if there are no costs or damages, the law enforcement costs of identifying and apprehending the minor, to the city or county that incurred those costs, except that the county may deduct and retain 15 percent of the amount collected for those law enforcement costs, or an amount equivalent to its actual costs of collection, whichever is less.

742.22. If any provision or clause of this article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 910

An act to amend Section 53069.3 of, and to add Sections 38772, 38773.2, and 38773.6 to, the Government Code, relating to graffiti abatement.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 38772 is added to the Government Code, to read:

38772. (a) The legislative body of a city, county, or city and county may provide for the summary abatement of any nuisance resulting from the defacement of the property of another by graffiti or any other inscribed material at the expense of a minor creating, causing, or committing the nuisance and by ordinance may make the expense of abatement of the nuisance a lien against property of the minor and a personal obligation against the minor pursuant to Section 38773.2 or 38773.6.

(b) The parent or guardian having custody and control of the minor shall be jointly and severally liable with the minor. The legislative body of a city, county, or city and county may make the expense of abatement of any nuisance resulting from the defacement by a minor of the property of another by graffiti or any other inscribed material a lien against the property of a parent or guardian having custody and control of the minor and a personal obligation against the parent or guardian having custody and control of the minor pursuant to Section 38773.2 or 38773.6.

(c) Notwithstanding any other provision of law, the names and addresses of the parent or guardian having custody and control of the minor, if known, shall be reported by the probation officer of the county to the city clerk or other official designated by the legislative body of the city, county, or city and county in which the defaced property is located.

(d) As used in this section, the following terms have the following meanings:

(1) "Expense of abatement" includes, but is not limited to, court costs, attorney's fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the city, county, or city and county in identifying and apprehending the minor.

(2) "Graffiti or other inscribed material" means any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on any real or personal property.

(3) "Minor" means a minor who has confessed to, admitted to, or pled guilty or nolo contendere to a violation of Section 594, 594.3, 640.5, 640.6, or 640.7 of the Penal Code, or a minor convicted by final judgment of a violation of Section 594, 594.3, 640.5, 640.6, or 640.7 of the Penal Code, or a minor declared a ward of the Juvenile Court pursuant to Section 602 of the Welfare and Institutions Code by reason of the commission of an act prohibited by Section 594, 594.3, 640.5, 640.6, or 640.7 of the Penal Code.

SEC. 2. Section 38773.2 is added to the Government Code, to read:

38773.2. (a) The legislative body of a city, county, or city and county may, by ordinance, establish a procedure to collect abatement and related administrative costs incurred in the summary abatement of any nuisance resulting from the defacement by a minor

of the property of another by graffiti or any other inscribed material. The ordinance shall require notice to the minor prior to the recordation of a lien on the parcel of land owned by the minor. The ordinance shall require notice to the parent or guardian having custody and control of the minor prior to the recordation of a lien on the parcel of land owned by the parent or guardian having custody and control of the minor.

(b) The notice shall be served in the same manner as a summons in a civil action pursuant to Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. If the minor, after diligent search, cannot be found, the notice may be served by posting a copy of the notice upon the property owned by the minor, in a conspicuous place, for a period of 10 days. The notice shall also be published pursuant to Section 6062 in a newspaper of general circulation that is published in the county in which the property is located. If the parent or guardian having custody and control of the minor, after diligent search, cannot be found, the notice may be served by posting a copy of the notice upon the property owned by the parent or guardian having custody and control of the minor, in a conspicuous place, for a period of 10 days. The notice shall also be published pursuant to Section 6062 in a newspaper of general circulation that is published in the county in which the property is located.

(c) A graffiti nuisance abatement lien shall be recorded in the county recorder's office in the county in which the parcel of land is located. From the date of recording, the lien shall have the force, effect, and priority of a judgment lien.

(d) A graffiti nuisance abatement lien authorized by this section shall specify the amount of the lien; the name of the agency on whose behalf the lien is imposed; the date of the abatement order; the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed; and the name and address of the recorded owner of the parcel.

(e) If the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in subdivision (d) shall be recorded by the governmental agency. A graffiti nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

(f) A graffiti nuisance abatement lien may be satisfied through foreclosure in an action brought by the city.

(g) Notwithstanding Section 6103, Section 27383, or any other provision of law, the county recorder may impose a fee on the city, county, or city and county to reimburse the costs of processing and recording the lien and providing notice to the property owner. The city, county, or city and county may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

(h) As used in subdivision (a), "abatement and related

administrative costs" include, but are not limited to, court costs, attorney's fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the city, county, or city and county in identifying and apprehending the minor.

(i) The terms "graffiti or other inscribed material" and "minor" have the same meaning as specified in Section 38772.

SEC. 3. Section 38773.6 is added to the Government Code, to read:

38773.6. (a) As an alternative to the procedure specified in Section 38773.2, the legislative body of a city, county, or city and county may, by ordinance, establish a procedure for the abatement of any nuisance resulting from the defacement by a minor of property of another by graffiti or other inscribed material and make the abatement and related administrative costs a special assessment against a parcel of land owned by the minor or by the parent or guardian having custody and control of the minor. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the abatement and related administrative costs relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon prior to the date on which the first installment of the taxes would become delinquent, then the abatement and related administrative costs shall not result in a lien against the real property but shall instead be transferred to the unsecured roll for collection. Notices or instruments relating to the abatement proceeding or special assessment may be recorded.

(b) The terms "abatement and related administrative costs," "graffiti or other inscribed material" and "minor" have the same meaning as specified in Sections 38772 and 38773.2.

SEC. 4. Section 53069.3 of the Government Code is amended to read:

53069.3. (a) A city, county, or city and county may enact an ordinance to provide for the use of city or county funds to remove graffiti or other inscribed material from publicly or privately owned real or personal property located within the city, county, or city and county.

(b) The ordinance shall only authorize the removal of the graffiti or other inscribed material itself, and not the painting or repair of a more extensive area.

(c) The removal may be performed, in the case of publicly owned real or personal property, only after securing the consent of the public entity having jurisdiction over the property, and in the case of privately owned real or personal property, only after securing the

consent of the owner.

(d) (1) If a city enacts an ordinance pursuant to this section, the city may also enact an ordinance to establish a procedure pursuant to Section 38772, 38773, 38773.1, 38773.2, 38773.5, or 38773.6 to recover city funds used pursuant to this section to remove graffiti or other inscribed material from publicly or privately owned real or personal property within the city.

(2) If a county enacts an ordinance pursuant to this section, the county may enact an ordinance to establish a procedure pursuant to Section 25845 to recover county funds used pursuant to this section to remove graffiti or other inscribed material from publicly or privately owned real or personal property within the county.

(3) As used in this section, "city or county funds" include, but are not limited to, court costs, attorney's fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the city or county in identifying and apprehending the person who created, caused, or committed the graffiti or other inscribed material on the publicly or privately owned permanent real or personal property within the city or county.

(e) As used in this section, "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, or design that is marked, etched, scratched, drawn, or painted on any structural component of any building, structure, or other facility, regardless of the nature of the material of that structural component.

(f) This section does not preclude the abatement of graffiti or other inscribed material as a nuisance pursuant to Section 25845 or 38773.5 or the enactment or enforcement of any criminal law with respect to nuisance.

SEC. 4.5. Section 53069.3 of the Government Code is amended to read:

53069.3. (a) A city, county, or city and county may enact an ordinance to provide for the use of city or county funds to remove graffiti or other inscribed material from publicly or privately owned real or personal property located within the city, county, or city and county and to replace or repair public or privately owned property within that city, county, or city and county that has been defaced with graffiti or other inscribed material that cannot be removed cost effectively.

(b) The ordinance shall authorize only the removal of the graffiti or other inscribed material itself, or, if the graffiti or other inscribed material cannot be removed cost effectively, the repair or replacement of the portion of the property that was defaced, and not the painting, repair, or replacement of other parts of the property that were not defaced.

(c) (1) The removal, repair, or replacement may be performed, in the case of publicly owned real or personal property, only after securing the consent of the public entity having jurisdiction over the property, and in the case of privately owned real or personal

property, only after securing the consent of the owner or possessor.

(2) The law enforcement agency with primary jurisdiction in a city, county, or city and county that enacts an ordinance pursuant to this section may promulgate procedures for preremoval preservation of sufficient evidence of the graffiti or other inscribed material for criminal prosecutions or proceedings pursuant to Section 602 of the Welfare and Institutions Code pertaining to the person or persons who inscribed the graffiti or other material. These procedures shall be followed by the city, county, or city and county prior to or during removal of graffiti or other inscribed material.

(d) (1) If a city enacts an ordinance pursuant to this section, the city may also enact an ordinance to establish a procedure pursuant to Section 38772, 38773, 38773.1, 38773.2, 38773.5, or 38773.6 to recover city funds used pursuant to this section to remove graffiti or other inscribed material from publicly or privately owned real or personal property within the city.

(2) If a county enacts an ordinance pursuant to this section, the county may enact an ordinance to establish a procedure pursuant to Section 25845 to recover county funds used pursuant to this section to remove graffiti or other inscribed material from publicly or privately owned real or personal property within the county.

(3) As used in this section, "city or county funds" include, but are not limited to, court costs, attorney's fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the city or county in identifying and apprehending the person who created, caused, or committed the graffiti or other inscribed material on the publicly or privately owned permanent real or personal property within the city or county.

(e) As used in this section, "graffiti or other inscribed material" includes any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on any real or personal property.

(f) This section does not preclude the abatement of graffiti or other inscribed material as a nuisance pursuant to Section 25845 or 38773.5 or the enactment or enforcement of any criminal law with respect to nuisance.

SEC. 5. Nothing in this act supersedes or replaces the liability of a parent or guardian pursuant to Section 1714.1 of the Civil Code.

SEC. 6. Section 4.5 of this bill incorporates amendments to Section 53069.3 of the Government Code proposed by both this bill and SB 1779. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 53069.3 of the Government Code, and (3) this bill is enacted after SB 1779 in which case Section 4 of this bill shall not become operative.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service

charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 911

An act to amend Section 594.2 of the Penal Code, relating to crimes.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 594.2 of the Penal Code is amended to read:

594.2. (a) Every person who possesses a masonry or glass drill bit, a carbide drill bit, a glass cutter, a grinding stone, an awl, a chisel, a carbide scribe, an aerosol paint container, a felt tip marker, or any other marking substance with the intent to commit vandalism or graffiti, is guilty of a misdemeanor.

(b) As a condition of probation for any violation of this section, the court may order the defendant to perform community service not to exceed 90 hours during a time other than his or her hours of school attendance or employment.

(c) For the purposes of this section:

(1) "Felt tip marker" means any broad-tipped marker pen with a tip exceeding three-eighths of one inch in width, or any similar implement containing an ink that is not water soluble.

(2) "Marking substance" means any substance or implement, other than aerosol paint containers and felt tip markers, that could be used to draw, spray, paint, etch, or mark.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 912

An act to amend Sections 6011, 6012, 8604, 8951, 8956, 8957, 9021, 9151, and 9351 of, to amend the heading of Chapter 3.5 (commencing with Section 8732) of Part 3 of Division 2 of, to add Sections 60505, 60521, and 60630 to, to add Article 5 (commencing with Section 60581) to Chapter 8 of Part 31 of Division 2 of, to add Part 31 (commencing with Section 60001) to Division 2 of, to repeal Sections 8616, 8617, 8618, and 8751.6 of, to repeal Article 3 (commencing with Section 8721) of Chapter 3 of Part 3 of Division 2 of, and to repeal Article 2 (commencing with Section 8736) of Chapter 3.5 of Part 3 of Division 2 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 6011 of the Revenue and Taxation Code is amended to read:

6011. (a) "Sales price" means the total amount for which tangible personal property is sold or leased or rented, as the case may be, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold.

(2) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(b) The total amount for which the property is sold or leased or rented includes all of the following:

(1) Any services that are a part of the sale.

(2) Any amount for which credit is given to the purchaser by the seller.

(3) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(c) "Sales price" does not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) The amount charged for property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section, refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling

and restocking costs are refunded or credited to the customer. The amount withheld for rehandling and restocking costs may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle.

(3) The amount charged for labor or services rendered in installing or applying the property sold.

(4) (A) The amount of any tax (not including, however, any manufacturers' or importers' excise tax, except as provided in subparagraph (B)) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(B) The amount of manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for which the purchaser certifies that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property, measured by a stated percentage of sales price or gross receipts, whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in that city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether the tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer. However, if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the purchase of the property is made.

(8) Charges for transporting landfill from an excavation site to a site specified by the purchaser, either if the charge is separately stated and does not exceed a reasonable charge or if the entire consideration consists of payment for transportation.

(9) The amount of any motor vehicle, mobilehome, or commercial coach fee or tax imposed by and paid the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.

(10) (A) The amount charged for intangible personal property transferred with tangible personal property in any technology transfer agreement, if the technology transfer agreement separately

states a reasonable price for the tangible personal property.

(B) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the price at which the tangible personal property was sold, leased, or offered to third parties shall be used to establish the retail fair market value of the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(C) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has not been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the retail fair market value shall be equal to 200 percent of the cost of materials and labor used to produce the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(D) For purposes of this paragraph, "technology transfer agreement" means any agreement under which a person who holds a patent or copyright interest assigns or licenses to another person the right to make and sell a product or to use a process that is subject to the patent or copyright interest.

(11) The amount of any tax imposed upon diesel fuel pursuant to Part 31 (commencing with Section 60001).

SEC. 1.5. Section 6012 of the Revenue and Taxation Code is amended to read:

6012. (a) "Gross receipts" mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold. However, in accordance with any rules and regulations as the board may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his or her vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If that deduction is taken by the retailer, no refund or credit will be allowed to his or her vendor with respect to the sale of the property.

(2) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(4) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this

division.

(b) The total amount of the sale or lease or rental price includes all of the following:

(1) Any services that are a part of the sale.

(2) All receipts, cash, credits and property of any kind.

(3) Any amount for which credit is allowed by the seller to the purchaser.

(c) "Gross receipts" do not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) Sale price of property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section, refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer. The amount withheld for rehandling and restocking costs may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle.

(3) The price received for labor or services used in installing or applying the property sold.

(4) (A) The amount of any tax (not including, however, any manufacturers' or importers' excise tax, except as provided in subparagraph (B)) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(B) The amount of manufacturers' or importers' excise tax imposed pursuant to Section 4081 or 4091 of the Internal Revenue Code for which the purchaser certifies that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property measured by a stated percentage of sales price or gross receipts whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in that city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether the tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the

retailer. However, if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the sale of the property is made to the purchaser.

(8) Charges for transporting landfill from an excavation site to a site specified by the purchaser, either if the charge is separately stated and does not exceed a reasonable charge or if the entire consideration consists of payment for transportation.

(9) The amount of any motor vehicle, mobilehome, or commercial coach fee or tax imposed by and paid to the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.

(10) (A) The amount charged for intangible personal property transferred with tangible personal property in any technology transfer agreement, if the technology transfer agreement separately states a reasonable price for the tangible personal property.

(B) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the price at which the tangible personal property was sold, leased, or offered to third parties shall be used to establish the retail fair market value of the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(C) If the technology transfer agreement does not separately state a price for the tangible personal property, and the tangible personal property or like tangible personal property has not been previously sold or leased, or offered for sale or lease, to third parties at a separate price, the retail fair market value shall be equal to 200 percent of the cost of materials and labor used to produce the tangible personal property subject to tax. The remaining amount charged under the technology transfer agreement is for the intangible personal property transferred.

(D) For purposes of this paragraph, "technology transfer agreement" means any agreement under which a person who holds a patent or copyright interest assigns or licenses to another person the right to make and sell a product or to use a process that is subject to the patent or copyright interest.

(11) The amount of any tax imposed upon diesel fuel pursuant to Part 31 (commencing with Section 60001).

For purposes of the sales tax, if the retailers establish to the satisfaction of the board that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed. Section 1656.1 of the Civil Code shall apply in determining whether or not the retailers have absorbed the sales tax.

SEC. 2. Section 8604 of the Revenue and Taxation Code is amended to read:

8604. "Fuel" includes any combustible gas or liquid, by whatever name the gas or liquid may be known or sold, of a kind used in an internal combustion engine for the generation of power to propel a motor vehicle on the highways, except fuel that is subject to the tax imposed by Part 2 (commencing with Section 7301) or Part 31 (commencing with Section 60001).

It does not include any combustible gas or liquid specifically manufactured and used for racing motor vehicles at a racetrack.

SEC. 3. Section 8616 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 8617 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 8618 of the Revenue and Taxation Code is repealed.

SEC. 6. Article 3 (commencing with Section 8721) of Chapter 3 of Part 3 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 7. The heading of Chapter 3.5 (commencing with Section 8732) of Part 3 of Division 2 of the Revenue and Taxation Code is amended to read:

CHAPTER 3.5. COLLECTION OF TAX BY VENDOR

SEC. 8. Article 2 (commencing with Section 8736) of Chapter 3.5 of Part 3 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 9. Section 8751.6 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 8951 of the Revenue and Taxation Code is amended to read:

8951. The board, whenever it deems it necessary to ensure compliance with this part or any rule or regulation adopted under this part, may require any user or vendor to deposit with it that security as it may determine. Any security in the form of cash, government bonds, or insured deposits in banks and savings and loan institutions shall be held by the board in trust to be used solely in the manner provided for by this section and Section 8956. The board may sell the security at public sale if it becomes necessary in order to recover any amount due under this part. Notice of the sale may be served upon the person who deposited the security personally or by mail in the manner prescribed for service of notice of a deficiency determination. Security in the form of a bearer bond issued by the United States or the State of California that has a prevailing market price may, however, be sold by the board at private sale at a price not lower than the prevailing market price thereof. Upon any sale, any surplus above the amount due shall be returned to the person who deposited the security.

SEC. 10.5. Section 8951 of the Revenue and Taxation Code is amended to read:

8951. The board, whenever it deems it necessary to ensure compliance with this part or any rule or regulation adopted under this part, may require any user or vendor to deposit with it any security that it may determine. Any security in the form of cash, government bonds, or insured deposits in banks and savings and loan institutions shall be held by the board in trust to be used solely in the manner provided for by this section and Section 8956. The board may sell the security at public sale if it becomes necessary in order to recover any amount due under this part. Notice of the sale may be served upon the person who deposited the security personally or by mail in the manner prescribed for service of notice of a deficiency determination. Upon any sale, any surplus above the amount due shall be returned to the person who deposited the security.

SEC. 11. Section 8956 of the Revenue and Taxation Code is amended to read:

8956. If, at the time a person ceases to be a user or vendor under this part, the board holds security pursuant to Section 8951 in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions, the security when applied to the account of the taxpayer shall be deemed to be a payment on account of any liability of the taxpayer to the board on the date the person ceases to be a user or vendor under this part.

SEC. 12. Section 8957 of the Revenue and Taxation Code is amended to read:

8957. (a) Subject to the limitations in subdivisions (b) and (c), the board may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a user, vendor, or other person liable for any amount under this part to withhold from those credits or other personal property the amount of any tax, interest, or penalties due from that user, vendor, or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at those times as it may designate.

(b) The person served shall continue to withhold pursuant to the Notice of Levy until the amount specified in the notice, including accrued interest, has been paid in full, until the notice is withdrawn, or until one year from the date the notice is received, whichever occurs first.

(c) The amount required to be withheld is the lesser of the following:

(1) The amount due stated on the notice.

(2) The amount of each payment due or becoming due to the user, vendor, or other person liable during the period of the levy.

(d) For the purposes of this section, the term "payments" does not include earnings as that term is defined in subdivision (a) of Section 706.011 of the Code of Civil Procedure or funds in a deposit account as defined in Section 9105 of the Commercial Code. The term "payments" does include any of the following:

(1) Payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, mineral or other natural rights.

(2) Payments or credits due or becoming due periodically as a result of an enforceable obligation to the user, vendor, or other person liable for the tax.

(3) Any other payments or credits due or becoming due the user, vendor, or other person liable as the result of written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(e) In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch or office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

SEC. 13. Section 9021 of the Revenue and Taxation Code is amended to read:

9021. If any vendor liable for any amount under this part sells out his or her business or stock of goods or quits the business, his or her successor or assigns shall withhold from the purchase price an amount sufficient to cover that amount until the former owner produces a receipt from the board showing that it has been paid or a certificate stating that no amount is due.

SEC. 14. Section 9151 of the Revenue and Taxation Code is amended to read:

9151. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth that fact in its records and certify to the State Board of Control the amount paid in excess of the amount legally due and the person by whom the excess was paid to the board or from whom it was collected. If the State Board of Control approves, the excess amount paid or collected shall be credited on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall either be refunded to the person, or his or her successors, administrators, executors, or assigns, or, if authorized by the board, deducted by the person from any amounts to become due from him or her under this part.

In the case, however, of a determination by the board that an amount not exceeding fifty thousand dollars ($50,000) was not required to be paid under this part, the board without obtaining the approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors.

Any overpayment of the tax by a user to a vendor who is required to collect the tax and who gives the user a receipt therefor pursuant to Section 8732 shall be credited or refunded by the state to the user.

SEC. 15. Section 9151 of the Revenue and Taxation Code is

amended to read:

9151. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth that fact in its records and certify the amount paid in excess of the amount legally due and the person by whom the excess was paid to the board or from whom it was collected. The excess amount paid or collected shall be credited on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall either be refunded to the person, or his or her successors, administrators, executors, or assigns, or, if authorized by the board, deducted by the person from any amounts to become due from him or her under this part.

Any overpayment of the tax by a user to a vendor who is required to collect the tax and who gives the user a receipt therefor pursuant to Section 8732 shall be credited or refunded by the state to the user.

For any amount exceeding fifty thousand dollars ($50,000), the board's proposed determination under this section shall be available as a public record for at least 10 days prior to the effective date of the determination.

SEC. 16. Section 9351 of the Revenue and Taxation Code is amended to read:

9351. Any person who places or causes to be placed fuel into a receptacle on a motor vehicle from which receptacle fuel is supplied for the propulsion of the vehicle, or who acquires fuel outside this state and uses the fuel for the propulsion of a motor vehicle within this state, is guilty of a misdemeanor unless that person is a vendor and collects the tax as provided under Section 8732 or 8736 or that person is a user who holds a valid use fuel tax permit, or is excluded from that requirement under Section 8608, and uses the fuel placed in the receptacle. He or she shall be fined for each offense not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000), or be imprisoned for not exceeding six months in the county jail, or be subject to both fine and imprisonment in the discretion of the court.

SEC. 17. Part 31 (commencing with Section 60001) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 31. DIESEL FUEL TAX LAW

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

60001. This part is known and may be cited as the "Diesel Fuel Tax Law."

60003. "Terminal" means a diesel fuel storage and distribution facility that is supplied by pipeline or vessel, and from which diesel fuel may be removed at a rack.

60004. "Refinery" means a facility used to produce diesel fuel from crude oil, unfinished oils, natural gas liquids, or other

hydrocarbons and from which diesel fuel may be removed by pipeline, by vessel, or at a rack.

60005. "Approved terminal or refinery" means a terminal or refinery that is operated, respectively, by a diesel fuel registrant that is a terminal operator, or by a diesel fuel registrant that is a refiner.

60006. "Rack" means a mechanism for delivering diesel fuel from a refinery or terminal into a truck, trailer, railroad car, or other means of nonbulk transfer.

60007. "Removal" means any physical transfer of diesel fuel, and any use of diesel fuel other than as a material in the production of diesel fuel. However, diesel fuel is not removed when it evaporates or is otherwise lost or destroyed.

60008. "Person" includes any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, the United States, this state, any county, city and county, municipality, district, or other political subdivision thereof, or any other group or combination acting as a unit.

60009. "Terminal operator" includes any person that owns, operates, or otherwise controls a terminal.

60010. "Position holder" includes any person that holds the inventory position in the diesel fuel, as reflected on the records of the terminal operator. A person holds the inventory position in diesel fuel when that person has a contractual agreement with the terminal operator for the use of storage facilities and terminaling services at a terminal with respect to the diesel fuel. "Position holder" includes a terminal operator that owns diesel fuel in its terminal.

60011. "Refiner" includes any person that owns, operates, or otherwise controls a refinery.

60012. "Blender" includes any person that produces blended diesel fuel outside the bulk transfer/terminal system.

60013. "Enterer" includes any person who is the importer of record (under federal customs law) with respect to diesel fuel. If the importer of record is acting as an agent, the person for whom the agent is acting is the enterer. If there is no importer of record of diesel fuel entered into this state, the owner of the diesel fuel at the time it is brought into this state is the enterer.

60015. "Diesel fuel registrant" includes any enterer, position holder, refiner, or terminal operator, that is licensed as a supplier pursuant to Section 60131.

60016. "Highway" includes any way or place, of whatever nature, that is publicly maintained and open to the use of the public for purposes of vehicular travel.

60017. "In this state" or "in the state" means within the exterior limits of the State of California and includes all territory within these limits owned by or ceded to the United States.

60018. "Fuel tank" means any receptacle on a motor vehicle from which fuel is supplied for the operation of the motor vehicle.

60019. "Motor vehicle" includes every self-propelled vehicle operated or suitable for operation on the highway, except a vehicle

used exclusively upon stationary rails or tracks.

60021. "Entry" means the importing of diesel fuel into this state. However, diesel fuel brought into this state in the fuel tank of a motor vehicle shall not be deemed to be an "entry" if not removed from the fuel tank except as used for the operation of that motor vehicle, except to the extent that diesel fuel was acquired tax free for export or a refund of tax was claimed as a result of exportation from the state from which that diesel fuel was transported into this state.

60022. "Diesel fuel" means any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the engine of a diesel-powered highway vehicle.

However, a liquid does not possess this practical and commercial fitness solely by reason of its possible or rare use as a fuel in the engine of a diesel-powered highway vehicle. "Diesel fuel" does not include kerosene.

"Diesel fuel" includes any combustible liquid, by whatever name the liquid may be known or sold, when the liquid is used in an internal combustion engine for the generation of power to operate a motor vehicle licensed to operate on the highway, except fuel that is subject to the tax imposed in Part 2 (commencing with Section 7301) or Part 3 (commencing with Section 8601).

60023. "Blended diesel fuel" means any mixture of diesel fuel with respect to which tax has been imposed and any other liquid (such as kerosene) on which tax has not been imposed (other than diesel fuel dyed in accordance with United States Environmental Protection Agency or Internal Revenue Service rules).

60024. "Colorless marker" means material that does not reveal its presence until the diesel fuel into which it is introduced is subjected to a special test.

60025. "Delivery" means the placing of diesel fuel or any liquid into the fuel tank of a motor vehicle.

60026. "Diesel-powered highway vehicle" means a motor vehicle that is operated by a diesel-powered engine on a highway.

60027. "Highway vehicle operator" includes any person, except an interstate trucker, that owns, operates, or otherwise controls a diesel-powered highway vehicle and places, or causes to be placed, diesel fuel or any liquid into the fuel tank of a diesel-powered highway vehicle.

60029. "Bulk transfer" means any transfer of diesel fuel by pipeline or vessel.

60030. "Bulk transfer/terminal system" means the diesel fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Diesel fuel in a refinery, pipeline, vessel, or terminal is in the bulk transfer/terminal system. Diesel fuel in the fuel tank of any engine, or in any railcar, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system.

60031. "Dyed diesel fuel" means diesel fuel that is dyed under United States Environmental Protection Agency or the Internal Revenue Service rules for high sulphur diesel fuel or low sulphur diesel fuel or any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service and considered destined for nontaxable, off-highway uses.

60032. "Undyed diesel fuel" means diesel fuel that is not subject to the United States Environmental Protection Agency or Internal Revenue Service diesel fuel dyeing requirements.

60033. "Supplier" includes any person who is any of the following:

(a) Blender, as defined in Section 60012.

(b) Enterer, as defined in Section 60013.

(c) Position holder, as defined in Section 60010.

(d) Refiner, as defined in Section 60011.

(e) Terminal operator, as defined in Section 60009.

(f) Throughputter, as defined in Section 60035.

60034. "End seller" means any person who sells to a highway vehicle operator, dyed diesel fuel, diesel fuel on which a claim for refund has been allowed, or any liquid on which tax has not been imposed and the diesel fuel or liquid is used in the operation of the diesel-powered highway vehicle.

60035. "Throughputter" means any person that owns diesel fuel within the bulk transfer/terminal system (other than in a terminal) or is a position holder.

60036. "Ultimate vendor" means a person that sells undyed diesel fuel to the user of the diesel fuel (the ultimate purchaser) for use on a farm for farming purposes or for use in an exempt bus operation.

60037. "Ultimate purchaser" means a person that uses diesel fuel for use on a farm for farming purposes or an exempt bus operator that uses diesel fuel in an exempt bus operation.

60038. "Registered ultimate vendor" means a person that is licensed as an ultimate vendor pursuant to Section 60151.

60039. (a) "Exempt bus operation" consists of the following:

(1) Any transit district, transit authority, or city owning and operating a local transit system itself or through a wholly owned nonprofit corporation.

(2) Any private entity providing transportation services for the transportation of people under contract or agreement, except general franchise agreements, with a public agency authorized to provide public transportation services, only for diesel fuel consumed while providing services under those contracts or agreements entered into subsequent to January 1, 1979.

(3) Any passenger stage corporation subject to the jurisdiction of the Public Utilities Commission when the motor vehicles of the passenger stage corporation are exclusively operated in urban or suburban areas or between cities in close proximity for the transportation of persons for hire, compensation, or profit. However, the exemption is not extended to any line or lines operated by the

passenger stage corporation that exceed 50 miles of one-way route mileage.

(4) Any common carrier of passengers operating exclusively on any line or lines within the limits of a single city between fixed termini or over a regular route, 98 percent of whose operations, as measured by total route mileage operated, are exclusively within the limits of a single city, and who by reason thereof is not a passenger stage corporation subject to the jurisdiction of the Public Utilities Commission.

(5) Any school district, community college district, or county superintendent of schools owning, leasing, or operating buses for the purpose of transporting pupils to and from school and for other school or college activities involving pupils, including, but not limited to, field trips and athletic contests.

(6) Any private entity providing transportation services for the purposes specified in paragraph (5) under contract or agreement with a school district, community college district, or county superintendent of schools, only for diesel fuel consumed while providing services under those contracts or agreements entered into subsequent to September 30, 1984.

(b) "Exempt bus operation" as defined in subdivision (a), shall not be applicable to a charter-party carrier of passengers. The term "charter-party carrier of passengers" has the same meaning as that specified in Section 5360 of the Public Utilities Code and shall further include those transportation services described in subdivisions (a) and (e) of Section 5353 of the Public Utilities Code, if that transportation service is rendered as contract carriage and not as common carriage of passengers.

60040. "Exempt bus operator" includes any person that owns, operates, or controls an exempt bus operation.

60041. "Train operator" includes any person that owns, operates, or controls a diesel-powered train and is licensed as a railroad by the Interstate Commerce Commission.

60042. "Diesel-powered train" means any diesel-powered equipment or machinery that rides on rails, including equipment or machinery that transports passengers, freight, or a combination of both passengers and freight, and equipment or machinery that only carries freight or passengers of the operator thereof. Thus, the term includes a locomotive, work train, switching engine, and track maintenance machine.

CHAPTER 2. IMPOSITION OF TAX

60050. (a) A tax of eighteen cents ($0.18) is hereby imposed upon each gallon of diesel fuel subject to the tax in Sections 60051, 60052, and 60058.

(b) If the federal fuel tax is reduced below the rate of fifteen cents ($0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are

reduced or eliminated correspondingly, the tax rate imposed by this section, on and after the date of the reduction, shall be increased by an amount so that the combined state and federal tax rate per gallon equals thirty-three cents ($0.33).

(c) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt under this section.

60050.1. (a) For the privilege of storing, for the purpose of removal, sales, or use, every wholesaler owning undyed diesel fuel on July 1, 1995, shall pay a tax of eighteen cents ($0.18) for each gallon of undyed diesel fuel according to the volumetric measure thereof, on which a tax has not been imposed under Part 3 (commencing with Section 8601) as in effect on June 30, 1995, and tax would have been imposed on any prior removal, entry, or sale of undyed diesel fuel had Sections 60050 to 60061, inclusive, applied to undyed diesel fuel for the period before July 1, 1995.

(b) For purposes of subdivision (a):

(1) "Storing" includes the possession in a storage facility, except an approved terminal or refinery, or a container of any kind, including the fuel tanks of motor vehicles, of undyed diesel fuel and the undyed diesel fuel purchased from and invoiced by the seller prior to July 1, 1995, and in transit on that date.

(2) "Owning" means having title to the undyed diesel fuel.

(3) "Wholesaler" means any person who sells diesel fuel in this state for resale to a retailer or to a person who is not a retailer and subsequently uses the diesel fuel and was required to be licensed under Part 3 (commencing with Section 8601) as a wholesaler as in effect on June 30, 1995.

60051. The tax specified in Section 60050 is imposed on the removal of diesel fuel in this state from a terminal if the diesel fuel is removed at the rack.

60052. The tax specified in Section 60050 is also imposed on all of the following:

(a) The removal of diesel fuel in this state from any refinery if either of the following applies:

(1) The removal is by bulk transfer and the refiner or the owner of the diesel fuel immediately before the removal is not a diesel fuel registrant.

(2) The removal is at the refinery rack.

(b) The entry of diesel fuel into this state for sale, consumption, use, or warehousing if either of the following applies:

(1) The entry is by bulk transfer and the enterer is not a diesel fuel registrant.

(2) The entry is not by bulk transfer.

(c) The removal of diesel fuel in this state to an unregistered person unless there was a prior taxable removal, entry, or sale of the diesel fuel.

(d) The removal or sale of blended diesel fuel in this state by the blender thereof. The number of gallons of blended diesel fuel subject

to tax is the difference between the total number of gallons of blended diesel fuel removed or sold and the number of gallons of previously taxed diesel fuel used to produce the blended diesel fuel.

60053. Every refiner shall pay tax on the removal of diesel fuel from a refinery as provided in subdivision (a) of Section 60052.

60054. Every position holder shall pay the tax on the removal of diesel fuel from a terminal as defined under Section 60051.

60055. Any person that produces blended diesel fuel outside the bulk transfer/terminal system (the blender) shall pay tax as provided in subdivision (d) of Section 60052.

60056. The highway vehicle operator is liable for the backup tax imposed under Section 60058.

60057. The end seller of diesel fuel generally is jointly and severally liable for the backup tax imposed under Section 60058 if the end seller knows or has reason to know that the diesel fuel will be used in a diesel-powered highway vehicle.

60058. The tax specified in Section 60050 is imposed as a backup tax on the delivery in this state into the fuel tank of a diesel-powered highway vehicle of any of the following:

(a) Any diesel fuel that contains a dye.

(b) Any diesel fuel on which a claim for refund has been allowed.

(c) Any liquid on which tax has not been imposed by this part, Part 2 (commencing with Section 7301), or Part 3 (commencing with Section 8601).

60059. The terminal operator is jointly and severally liable for the tax imposed under Section 60051 if both of the following apply:

(a) The position holder with respect to the diesel fuel is a person other than the terminal operator and is not a diesel fuel registrant.

(b) The terminal operator has not met the conditions of Section 60060.

60060. A terminal operator is not liable for tax under Section 60059, if at the time of the removal, all of the following apply:

(a) The terminal operator is a diesel fuel registrant.

(b) The terminal operator has an unexpired notification certificate from the position holder as required by the Internal Revenue Service.

(c) The terminal operator has no reason to believe that any information in the certificate is false.

60061. Every enterer shall pay tax on diesel fuel imported into this state as provided in subdivision (b) of Section 60052.

60062. The terminal operator is jointly and severally liable for the tax imposed under Section 60051 if, in connection with the removal of diesel fuel that is not dyed or marked in accordance with the United States Environmental Protection Agency or Internal Revenue Service requirements, the terminal operator provides any person with any bill of lading, shipping paper, or similar document indicating that the diesel fuel is dyed or marked in accordance with the United States Environmental Protection Agency or Internal Revenue Service requirements.

CHAPTER 3. EXEMPTIONS

60100. (a) The provisions of this part requiring the payment of taxes do not apply to any of the following:

(1) The removal from a terminal or refinery of, or the entry or sale of, any diesel fuel if all of the following apply:

(A) The person otherwise liable for tax is a diesel fuel registrant.

(B) In the case of a removal from a terminal, the terminal is an approved terminal.

(C) The diesel fuel satisfies the dyeing and marking requirements of Section 60101.

(2) Any entry or removal from a terminal or refinery of taxable diesel fuel transferred in bulk to a refinery or terminal if the persons involved (including the terminal operator) are registered.

(3) The removal of diesel fuel if all of the following apply:

(A) The diesel fuel is removed by railroad car from an approved refinery and is received at an approved terminal.

(B) The refinery and the terminal are operated by the same diesel fuel registrant.

(C) The refinery is not served by pipeline (other than a pipeline for the receipt of crude oil) or vessel.

(4) Diesel fuel which, pursuant to the contract of sale, is required to be shipped and is shipped to a point outside of this state by a supplier by means of any of the following:

(A) Facilities operated by the supplier.

(B) Delivery by the supplier to a carrier, customs broker, or forwarding agent, whether hired by the purchaser or not, for shipment to the out-of-state point.

(C) Delivery by the supplier to any vessel clearing from a port of this state for a port outside of this state and actually exported from this state in the vessel.

(5) Backup tax does not apply to delivery in this state of diesel fuel into the fuel tank of a diesel-powered highway vehicle as provided in Section 60058 for any of the following:

(A) Use on a farm for farming purposes.

(B) Use in an exempt bus operation.

(C) Use in a diesel-powered highway vehicle that is operated off the highway.

(6) Diesel fuel sold by credit card certified by the United States Department of State to any consulate officer or consulate employee of a foreign government who is not engaged in any private occupation for gain within this state, who uses the diesel fuel in a motor vehicle which is registered with the United States Department of State, and whose government has done either of the following:

(A) Entered into a treaty with the United States providing for the exemption of its representatives from national, state, and municipal taxes.

(B) Granted a similar exemption to representatives of the United

States.

(7) Diesel fuel sold by a supplier to a train operator for use in a diesel-powered train or for other off-highway use and the supplier has on hand an exemption certificate from the train operator.

(b) For purposes of this section:

(1) "Carrier" means a person or firm engaged in the business of transporting for compensation property owned by other persons, and includes both common and contract carriers.

(2) "Forwarding agent" means a person or firm engaged in the business of preparing property for shipment or arranging for its shipment.

60101. (a) Diesel fuel that is required to be dyed satisfies the dyeing requirement of this part if it meets the dyeing requirements of the United States Environmental Protection Agency and the Internal Revenue Service, including, but not limited to, requirements respecting type, dosage, and timing.

(b) Marking shall meet the marking requirements of the Internal Revenue Service.

60102. Notice is required with respect to dyed diesel fuel. In general, a notice stating: "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" shall be:

(a) Provided by the terminal operator to any person that receives dyed diesel fuel at a terminal rack of that terminal operator.

(b) Provided by any seller of dyed diesel fuel to its buyer if the diesel fuel is located outside the bulk transfer/terminal system and is not sold from a retail pump posted in accordance with the requirements of subdivision (c).

(c) Posted by a seller on any retail pump where it sells dyed diesel fuel for use by its buyer.

60103. The form of notice required under subdivisions (a) and (b) of Section 60102, shall be provided by the time of the removal or sale and shall appear on shipping papers, bills of lading, and invoices accompanying the sale or removal of the dyed diesel fuel.

60104. Any person that fails to provide or post the required notice with respect to any dyed diesel fuel is subject to the penalty imposed by Section 60706.

60106. Any sale of diesel fuel to a train operator claimed as exempt from taxes under paragraph (7) of subdivision (a) of Section 60100 shall be supported by an exemption certificate executed by the purchaser in a form as prescribed by the board. The supplier shall retain the certificate in his or her records in support of the exemption.

60106.1. In order to issue an exemption certificate as provided in Section 60106, the train operator shall obtain a permit from the board. Every application for a permit shall be made upon a form prescribed by the board and shall set forth the name under which the applicant transacts or intends to transact business, the location of his or her place or places of business, and such other information as the board may require. The application shall be signed by the owner if

a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

60106.2. If a purchaser gives a Section 60106 exemption certificate to a supplier that the diesel fuel purchased will be used in a manner or for a purpose entitling the supplier to regard the removal as exempt from the taxes as provided in paragraph (7) of subdivision (a) of Section 60100 and sells the diesel fuel or uses the diesel fuel in some other manner or for some other purpose, the purchaser shall be liable for payment of the tax under Chapter 2 (commencing with Section 60050) of this part as if the purchaser were a supplier of the diesel fuel at the time of that sale or use.

60106.3. (a) Any person, including any officer or employee of a corporation, who gives a Section 60106 exemption certificate for diesel fuel that he or she knows at the time of purchase is not to be used by him or her or the corporation in the manner or for the purpose entitling the exemption for the purpose of evading payment to the supplier of the amount of the tax applicable to the transaction is guilty of a misdemeanor punishable as provided in Section 60706 or a felony punishable as provided in Section 60707.

(b) Any person, including any officer or employee of a corporation, who gives a certificate for diesel fuel pursuant to Section 60106 that he or she knows at the time of purchase is not to be used by him or her or the corporation in the manner or for the purpose entitling the exemption is liable to the state for the amount of tax that would be due if he or she had not given that certificate. In addition to the tax, the person shall be liable to the state for a penalty of 25 percent of the tax or five hundred dollars ($500), whichever is greater, for each purchase made for personal gain or to evade the payment of taxes.

60107. (a) For the privilege of purchasing diesel fuel exempt from taxes under paragraph (7) of subdivision (a) of Section 60100, each train operator must make a report to the board showing:

(1) The name and permit number of the supplier from whom it purchased undyed diesel fuel and the number of gallons of undyed diesel fuel purchased that is exempt from the tax.

(2) Any other information required by the board.

(b) Each train operator shall prepare and file with the board on forms prescribed by the board a report showing the information in subdivision (a) during each quarterly reporting period. The report shall be filed with the board on or before the last day of the calendar month following the close of the quarterly period to which it relates. To facilitate the administration of this part, the board may require the filing of these reports for other than quarterly periods.

(c) The board may revoke the train operator's permit provided for in Section 60106.1 due to the filing of inaccurate or improper reports.

CHAPTER 4. INTERSTATE TRUCKERS

Article 1. Definitions

60110. Except where the context otherwise requires, the definitions given in this chapter govern the construction of this chapter and this part.

60111. "Interstate trucker" includes any person who uses diesel fuel in the operation of a qualified motor vehicle in this state and who operates the qualified motor vehicle within and without this state or the United States.

60112. "Qualified motor vehicle" means a motor vehicle used, designed, or maintained for transportation of persons or property that (a) has two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 12,000 kilograms, (b) has three or more axles regardless of weight, or (c) is used in combination, when the weight of that combination exceeds 26,000 pounds or 12,000 kilograms gross vehicle weight. "Qualified motor vehicle" does not include recreational vehicles.

60113. "Recreational vehicle" means motor vehicles such as motor homes, pickup trucks with attached campers, and buses when used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the motor vehicle shall not be used in connection with any business endeavor.

60114. "Diesel vendor" means every person who sells diesel fuel in this state and places, or causes to be placed, the diesel fuel into a fuel tank of a qualified motor vehicle and at the time of sale, collects the diesel fuel tax from an interstate trucker.

Article 2. Imposition of Tax

60115. (a) For the privilege of using diesel fuel in a qualified motor vehicle in this state by interstate truckers, there is hereby imposed upon any interstate trucker for each gallon of diesel fuel used, a tax of eighteen cents ($0.18).

(b) If the federal fuel tax is reduced below the rate of fifteen cents ($0.15) per gallon and federal financial allocations to this state for highway and exclusive public mass transit guideway purposes are reduced or eliminated correspondingly, the tax rate imposed by this section, on and after the date of the reduction, shall be increased by an amount so that the combined state and federal tax rate per gallon equals thirty-three cents ($0.33).

(c) If any person or entity is exempt or partially exempt from the federal fuel tax at the time of a reduction, the person or entity shall continue to be exempt under this section.

Article 3. Licenses for Interstate Truckers

60120. Every person operating a qualified motor vehicle in interstate commerce shall apply to the board for a license on forms prescribed by the board.

60121. Before granting a license authorizing a person to engage in business as an interstate trucker, the board may require the person to file with the board security pursuant to Section 60401. The license issued to any interstate trucker is not transferable and is valid until canceled or revoked.

60122. The board may authorize the issuance of diesel fuel trip permits to holders of trip permits issued under Section 4004 of the Vehicle Code. The diesel fuel trip permit shall be valid for the same period as the trip permit issued under Section 4004 of the Vehicle Code. The fee for issuance of a diesel fuel trip permit is thirty dollars ($30). Other provisions of this article and Article 1 (commencing with Section 60201) of Chapter 6 shall not apply to the holder of a diesel fuel trip permit who uses only diesel fuel brought into this state in the fuel tank of the qualified motor vehicle and diesel fuel purchased in this state with the diesel fuel tax paid and delivered into the fuel tank of the qualified motor vehicle. Any diesel fuel tax paid to a diesel vendor for diesel fuel taken out of the state in the fuel tank of a qualified motor vehicle operated under a diesel fuel trip permit shall not be refunded to the holder of the diesel fuel trip permit, notwithstanding any other provision of this part.

The board may deny the issuance of more than one diesel fuel trip permit for any interstate trucker determined by the board to bring vehicles into this state on a regular, ongoing basis. The board shall maintain a file of all permits issued under this section for the purpose of determining the effectiveness of the program and the appropriateness of the fee. The board may enter into an interagency agreement with the Department of Motor Vehicles providing for the issuance of diesel fuel trip permits by that department.

Article 4. Administrative Provisions

60128. All of the administrative provisions of this part not inconsistent with this chapter shall be applicable to the administration of the tax imposed by Section 60115.

CHAPTER 5. LICENSES

Article 1. Licenses for Suppliers

60131. Every person, before becoming a supplier, shall apply to the board for a license authorizing the person to engage in business as a supplier. A supplier's license shall be issued only to a person who is a supplier of diesel fuel within the meaning of the word "supplier" as defined in Section 60033. It is unlawful for any person to be a

supplier without first securing a license.

60132. Applications shall be made on forms prescribed, prepared, and furnished by the board.

60133. Before granting a license authorizing a person to engage in business as a supplier, the board may require the person to file with the board security pursuant to Section 60401. The license issued to any supplier is not transferable and is valid until canceled or revoked.

Article 2. License for Exempt Bus Operator

60141. Every person before becoming an exempt bus operator, shall apply for a license authorizing the person to engage in business as an exempt bus operator. A license shall be issued only to a person who is an exempt bus operator as defined in Section 60040. It is unlawful for any person to be an exempt bus operator without first securing a license.

60142. Application shall be made on forms to be prescribed, prepared, and furnished by the board.

60143. Before granting a license authorizing a person to engage in business as an exempt bus operator, the board may require the person to file with the board security pursuant to Section 60401. The license issued to any exempt bus operator is not transferable and is valid until canceled or revoked.

Article 3. License for Ultimate Vendor

60151. (a) A person shall be licensed if that person is engaged in the activity of an "ultimate vendor" of diesel fuel. It is unlawful for any person to act as an ultimate vendor without first securing a license.

(b) If a person is a supplier and an ultimate vendor, the supplier's license may cover the ultimate vendor activities.

60152. Applications shall be made on forms prescribed, prepared, and furnished by the board.

60153. The board shall license an applicant as an ultimate vendor of diesel fuel only if the board determines that the applicant meets the necessary requirements and is satisfied with the filing, deposit, payment, and claim history for all state taxes of the applicant.

Article 4. License for Highway Vehicle Operator and End Seller

60161. Every highway vehicle operator and every end seller is required to be licensed at any time they incur liability for the backup tax under Section 60058. The highway vehicle operator and end seller shall apply for a license authorizing the person to report the backup tax. A license shall be issued only to a highway vehicle operator who is subject to the backup tax in Section 60056 or to an end seller who is subject to the backup tax in Section 60057.

60162. Applications shall be made on forms prescribed, prepared, and furnished by the board.

60163. Before granting a license authorizing a person to report the backup tax as a highway vehicle operator or an end seller, the board may require the person to file with the board security pursuant to Section 60401. The license issued to any highway vehicle operator or end seller is not transferable and is valid until canceled or revoked.

Article 5. Denial of License

60171. The board may refuse to issue any license in either of the following circumstances:

(a) If the application therefor is filed by an applicant who formerly held any license under this part that, prior to the time of filing the application, has been revoked for cause by the board.

(b) If the board determines that the application therefor is not filed in good faith or made by the real person in interest.

60172. Prior to refusal specified in Section 60171, the board shall grant the applicant a hearing and shall give him or her at least 10 days' written notice of the time and place thereof.

60173. The notice specified in Section 60172 shall be addressed to the applicant at his or her address as it appears in the records of the board, and shall be given in the manner prescribed in Section 60311 for giving notice of a deficiency determination.

Article 6. Revocation of License

60180. The board may revoke the license of any person who refuses or neglects to comply with any provision of this part or any rule or regulation of the board prescribed and adopted under this part.

60181. The board may revoke any of the following licenses:

(a) Any supplier's license held by a person who does not engage in, or who discontinues, the removal, entry, or sale of diesel fuel, producing of blended diesel fuel, owning or holding inventory position of diesel fuel, or owning or operating a refinery or terminal as any of the following:

(1) A blender, as defined in Section 60012.

(2) An enterer, as defined in Section 60013.

(3) A position holder, as defined in Section 60010.

(4) A refiner, as defined in Section 60011.

(5) A terminal operator, as defined in Section 60009.

(6) A throughputter, as defined in Section 60035.

(b) Any interstate trucker's license held by a person who does not engage in, or who discontinues, using diesel fuel as an "interstate trucker" as defined in Section 60111.

(c) Any ultimate vendor's license held by a person who does not engage in, or who discontinues, selling undyed diesel fuel as an "ultimate vendor" as defined in Section 60036.

(d) Any exempt bus operator's license held by a person who does not engage in, or who discontinues, using diesel fuel as an "exempt bus operator" as defined in Section 60040.

(e) Any highway vehicle operator's or end seller's license held by a person who does not engage in, or who discontinues, the delivery of diesel fuel subject to the backup tax into fuel tanks of diesel-powered highway vehicles as a highway vehicle operator as defined in Section 60027 or as an end seller as defined in Section 60034.

60182. Prior to revoking any license, the board shall notify the licensee to show cause, within 10 days after the notice is given, why his or her license should not be revoked. The notice shall be given in the manner prescribed in Section 60311 for giving notice of a deficiency determination.

60183. The board may cancel any license issued under this part immediately upon surrender thereof, but before revoking a license, the board shall allow the person an opportunity to show cause as provided in Section 60182.

60184. Upon revocation or cancellation of the license of the person or his or her cessation of business, all diesel fuel remaining in his or her possession or ownership shall be deemed removed, entered, sold, delivered, or used and subject to jeopardy determination as provided in Section 60330 if, in the judgment of the board, it is necessary to ensure payment of the tax with respect to the removal, entry, sale, delivery, or use of the diesel fuel.

60185. Subsequent to the revocation of the license of a person, the board shall reinstate the permit when the person pays the amount of tax determined, together with interest and penalties, fully complies with this part, and pays a fee of fifty dollars ($50) to the board for reinstatement. The fee shall not be subject to refund except as provided in Section 60521.

60186. It is unlawful for any person to operate in this state after a license has been revoked.

Article 7. Licensing of Locations

60190. Every person required to be licensed by the board shall provide the board with the names and addresses of all agents operating in this state, the location of all offices or other places of business in this state, and any other information as the board may require.

CHAPTER 6. DETERMINATIONS AND PAYMENTS

Article 1. Returns and Payments

60201. Each supplier shall prepare and file with the board on forms prescribed by the board a return showing the total number of gallons of diesel fuel removed, entered, or sold by him or her within

this state during each calendar month, or the monthly period ended during that calendar month as the board may authorize, the amount of tax due for the month covered by the return, and any other information as the board deems necessary for the proper administration of this part. The person shall file the return on or before the last day of the calendar month following the monthly period to which it relates, together with a remittance payable to the board for the amount of tax due for that period, less whatever amounts may have been paid theretofore for the same period because of weekly returns. To facilitate the administration of this part, the board may require the filing of the returns for other than monthly periods.

60201.1. Each person subject to the tax imposed under Section 60050.1, on or before September 30, 1995, shall prepare and file with the board, on forms prescribed by the board, a return showing the total number of gallons of undyed diesel fuel owned by the person on July 1, 1995, for which a tax has not been imposed under Part 3 (commencing with Section 8601) as in effect on June 30, 1995, the amount of the tax imposed, and any other information that the board deems necessary for the proper administration of this part.

The return shall be accompanied by a remittance payable to the board in the amount of tax due.

60202. (a) Each interstate trucker shall prepare and file with the board on forms prescribed by the board a return showing the amount of diesel fuel used during the quarterly reporting period by the interstate trucker in this state, the amount of any tax due, and any other information as the board may require for the administration of this part. The return shall be filed with the board on or before the last day of the calendar month following the close of the quarterly period to which it relates, together with a remittance payable to the board of the amount of tax due. To facilitate the administration of this part, the board may require the filing of returns for other than quarterly periods.

(b) An interstate trucker who has paid diesel fuel tax to a diesel vendor in this state shall be allowed a credit on his or her return for the tax paid to the diesel vendor.

60203. (a) Each throughputter shall prepare and make a return showing the following:

(1) The name and permit number of the operator of each terminal at which it holds an inventory position in taxable diesel fuel.

(2) Any other information required by the board.

(b) Each throughputter shall prepare and file with the board on forms prescribed by the board a return showing the information in subdivision (a) during each calendar month, or the monthly period ended during that calendar month as the board may authorize. The person shall file the return on or before the last day of the calendar month following the monthly period to which it relates. To facilitate the administration of this part, the board may require the filing of the returns for other than monthly periods.

60204. Each terminal operator shall file with the board a copy of any return required to be filed with the Internal Revenue Service pursuant to Section 48.4101-4T of Title 26 of the Code of Federal Regulations. The copy of the return shall be filed no later than 10 days after the original filing of the federal return.

60205. Each exempt bus operator shall prepare and file with the board on forms prescribed by the board a return showing the total number of gallons of diesel fuel used in the exempt bus operation by him or her within this state during each calendar month, or the monthly period ended during that calendar month as the board may authorize, the amount of tax pursuant to Section 60502.2 due for the month covered by the return, and any other information as the board deems necessary for the proper administration of this part. The person shall file the return on or before the last day of the calendar month following the monthly period to which it relates, together with a remittance payable to the board for the amount of tax due for that period. To facilitate the administration of this part, the board may require the filing of the returns for other than monthly periods.

60206. Each highway vehicle operator and end seller shall prepare and file with the board on forms prescribed by the board a return showing the total number of gallons of diesel fuel subject to the backup tax that was delivered into the fuel tank of a diesel-powered highway vehicle or sold by him or her within this state during each calendar month, or the monthly period ended during that calendar month as the board may authorize, the amount of tax due for the month covered by the return, and any other information as the board deems necessary for the proper administration of this part. The person shall file the return on or before the last day of the calendar month following the monthly period to which it relates, together with a remittance payable to the board for the amount of tax due for that period. To facilitate the administration of this part, the board may require the filing of the returns for other than monthly periods.

60207. Any person who fails to file a report or return or to pay the amount of tax shown to be due by that person's return on or before the last day of the month following the reporting period to which it relates, shall pay a penalty of 10 percent of the tax or fifty dollars ($50), whichever is greater, together with interest on that tax at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable to the state until the date of payment.

60208. The board for good cause may extend for a period not to exceed one month, the time for making any report or return or paying any tax required under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

Any person to whom an extension is granted shall pay, in addition to the tax, interest at the modified adjusted rate per month, or

fraction thereof, established pursuant to Section 6591.5, from the date on which the tax would have been due without the extension to the date of payment.

60209. If the board finds that a person's failure to make a timely report, return, or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 60207, 60301, 60338, and 60355.

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

60210. (a) If the board finds that a person's failure to make a timely return or payment is due to the person's reasonable reliance on written advice from the board, the person may be relieved of the taxes imposed by this part and any penalty or interest added thereto.

(b) For purposes of this section, a person's failure to make a timely return or payment shall be considered to be due to reasonable reliance on written advice from the board, only if the board finds that all of the following conditions are satisfied:

(1) The person requested in writing that the board advise him or her whether a particular activity or transaction is subject to tax under this part. The specific facts and circumstances of the activity or transaction shall be fully described in the request.

(2) The board responded in writing to the person regarding the written request for advice, stating whether or not the described activity or transaction is subject to tax, or stating the conditions under which the activity or transaction is subject to tax.

(3) The liability for taxes applied to a particular activity or transaction that occurred before either of the following:

(A) Before the board rescinded or modified the advice so given, by sending written notice to the person of the rescinded or modified advice.

(B) Before a change in statutory or constitutional law, a change in the board's regulations, or a final decision of a court, that renders the board's earlier written advice no longer valid.

(c) Any person seeking relief under this section shall file with the board all of the following:

(1) A copy of the person's written request to the board and a copy of the board's written advice.

(2) A statement under penalty of perjury setting forth the facts on which the claim for relief is based.

(3) Any other information that the board may require.

(d) Only the person making the written request shall be entitled to rely on the board's written advice to that person.

60211. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided

by Sections 60207, 60208, and 60302.

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

Article 2. Determination If No Return Made

60301. If any person fails, neglects, or refuses to file the return within the time prescribed by this chapter, the board shall estimate the diesel fuel removals, entries, sales, deliveries, or use for the period for which he or she made no return within the time required. Upon the basis of this estimate, the board shall determine the tax due from the person, and shall add to the tax a penalty of 10 percent thereof. The board may make a determination for more than one period and may make one or more determinations for the same period.

60302. Each determination so made, exclusive of penalties, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the month following the reporting period for which the amount or any portion thereof should have been returned until the date of payment.

60303. If the neglect or refusal of a person to file a return is due to fraud or intent to evade the tax, a penalty of 25 percent of the tax shall be added thereto in addition to the 10-percent penalty provided in Section 60301.

60304. Promptly after making its determination, the board shall give to the delinquent person written notice of the estimate, including tax, interest, and penalty. The notice shall be given in the manner prescribed in Section 60311 for giving notice of a deficiency determination.

Article 3. Deficiency Determinations

60310. If the board is not satisfied with the return made by any person, it may make a deficiency determination of the tax required to be paid by the person based upon information contained in the return or upon any information in the possession of the board. The board may make a determination for more than one period and may make one or more determinations for the same period. When a business is discontinued, a determination may be made at any time thereafter within the period specified in Section 60315, as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this part.

60311. The board shall give the person written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the person at that person's address as it appears in the records of the board. The giving of notice shall be

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

60312. If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 percent of the amount of the determination shall be added thereto.

60313. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade the tax, a penalty of 25 percent of the amount of the determination shall be added thereto.

60314. All deficiency determinations, exclusive of penalty, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the calendar month following the reporting period for which the amount or any portion thereof should have been returned until the date of payment.

60315. Except in the case of fraud, intent to evade this part or authorized rules and regulations, or failure to make a return, every notice of a deficiency determination shall be given to the person within three years after the last day of the calendar month following the reporting period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires later. In the case of a failure to make a return, the notice of determination shall be mailed within eight years after the date the return was due.

60316. In the case of a deficiency arising under this part during the lifetime of a decedent, a notice of deficiency determination shall be mailed within four months after written request therefor, in the form required by the board, by the fiduciary of the estate or trust or by any other person liable for the tax or any portion thereof.

60317. If before the expiration of the time prescribed in Section 60315 for the mailing of a notice of deficiency determination the taxpayer has consented in writing to the mailing of the notice after that time, the notice may be mailed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Article 4. Jeopardy Determinations and Weekly Payments

60330. If the board believes that the collection of any amount of tax imposed under this part will be jeopardized by delay, it shall thereupon make a determination of the amount of tax, noting that fact upon the determination. The amount determined is immediately due and payable.

60331. If the amount of the tax, interest, and penalty specified in the jeopardy determination is not paid within 10 days after service upon the person of notice of the determination, the determination becomes final, unless a petition for redetermination is filed within 10 days, and the delinquency penalty and interest provided in Article 5 (commencing with Section 60350) shall attach to the amount specified.

60332. The person against whom a jeopardy determination is made may petition for the redetermination thereof pursuant to Article 5 (commencing with Section 60350). That person shall, however, file the petition for redetermination with the board within 10 days after the service upon that person of notice of the determination. At the time of filing the petition for redetermination, the person shall deposit with the board that security as the board may deem necessary to ensure compliance with this part.

60333. (a) In accordance with rules and regulations as the board may prescribe, the person against whom a jeopardy determination is made may apply for an administrative hearing for one or more of the following purposes:

(1) To establish that the determination is excessive.

(2) To establish that the sale of property that may be seized after issuance of the jeopardy determination or any part thereof shall be delayed pending the administrative hearing because the sale would result in irreparable injury to the person.

(3) To request the release of all or a part of the property to the person.

(4) To request a stay of collection activities.

(b) The application shall be filed within 30 days after service of the notice of jeopardy determination and shall be in writing and state the specific factual and legal grounds upon which it is founded. No security need be posted to file the application and to obtain this hearing. However, if the person does not deposit within the 10-day period prescribed in Section 60332 that security as the board may deem necessary to ensure compliance with this part, the filing of the application shall not operate as a stay of collection activities, except sale of property seized after issuance of the jeopardy determination. Upon a showing of good cause for failure to file a timely application for administrative hearing, the board may allow a filing of the application and grant the person an administrative hearing. The filing of an application pursuant to this section shall not affect provisions of Section 60331 relating to the finality date of the determination or to penalty or interest.

60334. If the board deems it necessary in order to ensure payment to the state of the amount of taxes due from any supplier under this part, it may require the supplier to make returns and payments of taxes on a weekly basis. The supplier shall then file a return each Tuesday showing the total number of gallons of diesel fuel removed, entered or sold by him or her during the week ending the Saturday next preceding, the amount of tax due for that week, and any other information as the board deems necessary for the proper administration of this article. The return shall be accompanied by a remittance payable to the board for the amount of tax due for the period covered.

60335. A supplier required to make weekly payments is not relieved of the duty of filing the verified monthly return required by Article 1 (commencing with Section 60201).

60336. Whenever any supplier who is required to pay tax in weekly installments as provided by Section 60334 fails to make a weekly return or to pay the full amount in accordance with the terms and conditions prescribed by the board, the supplier's license may be revoked forthwith.

60337. If a supplier fails to make a weekly return or to pay any weekly installment of the tax, or any part thereof, pursuant to the requirement imposed upon the supplier under Section 60334, the full amount of the installment becomes immediately due and payable. The board shall thereupon make a jeopardy determination under Section 60330 and the board shall forthwith collect the tax due from the supplier in the manner prescribed by Chapter 6 (commencing with Section 60201) and Chapter 7 (commencing with Section 60401). All provisions of those chapters, where relevant, apply to collections required to be made under this article.

60338. If any supplier fails to pay any weekly installment of tax shown to be due by the supplier's weekly return on the Tuesday when required to be paid, a penalty of 5 percent shall be added thereto. In addition, if any weekly installment of tax remains unpaid on the last day of the calendar month following the month during which the last of the removals, entries, or sales occurred on which the weekly installment was levied, a penalty of 10 percent of the installment, exclusive of penalties, shall be added thereto.

The weekly installment shall be deemed not paid or unpaid on any particular day:

(a) If not paid prior to 5 p.m. of that day, when paid in person.

(b) If the envelope in which the remittance is enclosed bears a post office cancellation mark dated later than that day, when paid by mail.

60339. All jeopardy determinations including those made under Section 60337, exclusive of penalty, shall bear interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the last day of the month following the reporting period for which the amount or any portion thereof should have been returned until the date of payment.

60340. Any notice required by this article may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Article 5. Redeterminations

60350. Any person against whom a determination is made by the board under Article 2 (commencing with Section 60301) and Article 3 (commencing with Section 60310) may petition for a redetermination within 30 days after the date the notice thereof is given to him or her. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the period.

60351. Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at any time prior to the date on which the board issues its order or decision upon the petition for redetermination.

60352. If a petition for redetermination is filed within the 30-day period, the board shall reconsider the determination and, if the person has so requested in his or her petition, shall grant him or her an oral hearing and shall give 10 days' notice of the time and place of the hearing. Service of notice shall be as prescribed by Section 60173. The board may continue the hearing from time to time as may be necessary.

60353. The board may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the board at or before the hearing. Unless the penalty imposed by Section 60303, 60313, or 60361 applies to the amount of the determination as originally made or as increased, the claim for increase must be asserted within eight years after the date the return for the period for which the increase is asserted was due.

60354. The order or decision of the board upon a petition for redetermination becomes final 30 days after the giving of notice thereof to the person as prescribed by Section 60173.

60355. All determinations made by the board under this chapter are due and payable at the time they become final. If they are not paid when due and payable, a penalty of 10 percent of the amount of the determination, exclusive of interest and penalties, shall be added thereto. Payment shall be made in the form of a remittance payable to the board and shall be filed with the board together with a copy of the notice of determination which the board shall furnish to the person for that purpose.

60356. In making a determination, the board may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments. The interest on the underpayments and overpayments shall be

computed in the manner set forth in Sections 60314 and 60524.

Article 6. Payment by Unlicensed Persons

60360. If any person becomes a supplier, exempt bus operator, highway vehicle operator, end seller, or interstate trucker without first securing a license, the tax, and applicable penalties and interest, if any, become immediately due and payable on account of all diesel fuel removed, entered, sold, delivered, or used by him or her.

60361. The board shall forthwith ascertain as best it may the amount of the diesel fuel removed, entered, sold, delivered, or used and shall determine immediately the tax on that amount, adding to the tax a penalty of 25 percent of the amount of tax or five hundred dollars ($500), whichever is greater, and shall give the unlicensed person notice of this determination as prescribed by Section 60173. However, where the board determines that the failure to secure a license was due to reasonable cause, the penalty may be waived. Sections 60331 and 60332 shall be applicable with respect to the finality of the determination and the right of the unlicensed person to petition for a redetermination.

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

60362. The board shall forthwith collect the tax, penalty, and interest due from the unlicensed person by seizure and sale of property in the manner prescribed for the collection of a delinquent monthly tax.

60363. At the request of the board, the Attorney General shall commence and prosecute to final determination an action at law to collect the tax, penalty, and interest, or any part thereof, determined against an unlicensed person.

60364. In the suit, a copy of the jeopardy determination certified by the board shall be prima facie evidence that the unlicensed person is indebted to the state in the amount of the tax, penalties, and interest computed as prescribed by Section 60339.

60365. The foregoing remedies of the state are cumulative.

60366. No action taken pursuant to this article relieves the unlicensed person in any way from the penal provisions of this part.

CHAPTER 7. COLLECTION OF TAX

Article 1. Security for Tax

60401. The board, whenever it deems it necessary to ensure compliance with this part or any rule or regulation adopted under this part, may require any person to deposit with it such security as it may determine appropriate. The amount of the security shall be fixed by the board but shall not be more than four times the estimated average monthly tax liability of the person. The total

amount of security may not be in excess of one million dollars ($1,000,000) when the person has established to the satisfaction of the board that this security, together with property to which the lien imposed by Section 60445 attaches, is sufficient security to ensure payment of taxes equivalent to four times the estimated average monthly tax liability of the person. The amount of the security may be increased or decreased by the board at any time. Any security in the form of cash or insured deposits in banks and savings and loan institutions shall be held by the board in trust to be used solely in the manner provided for this section and Section 60406. Any security in the form of a bond or bonds shall be duly executed by an admitted surety insurer, payable to the state, conditioned upon faithful performance of all the requirements of this part, and expressly providing for the payment of all taxes, penalties, and other obligations of the person arising out of this part.

60402. If any person is delinquent in the payment of any obligation imposed under this part, or in the event a determination has been made against a person that remains unpaid, the board may, not later than three years after the payment becomes delinquent, or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, give notice thereof, personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the person, or owing any debts to the person. In the case of any state officer, department or agency, the notice shall be given to the officer, department or agency prior to the time it presents the claim of the delinquent taxpayer to the Controller.

60403. After receiving the notice, the persons so notified shall not transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires earlier.

60404. All persons so notified shall forthwith after receipt of the notice advise the board of all credits, other personal property, or debts in their possession, under their control, or owing by them. If the notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice to be effective shall state the amount, interest and penalty due from the person and shall be delivered or mailed to the branch or office of the bank at which the deposit is carried or at which such credits or personal property is held. Notwithstanding any other provision, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice shall be effective with respect to an amount not in excess of two times the amount, interest and penalty due from the person.

60405. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld, to the extent of the value of the property or the amount of the debts thus transferred or paid, he or she shall be liable to the state for any indebtedness due under this part from the person with respect to whose obligation the notice was given if solely by reason of that transfer or disposition the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

60406. If, at the time a person ceases to operate under this part, the board holds a security pursuant to Section 60401 in the form of cash, or insured deposits in banks or savings and loan institutions, the security when applied to the account of the taxpayer shall be deemed to be a payment on account of any liability of the taxpayer to the board on the date the person ceases to operate under this part.

60407. (a) Subject to the limitations in subdivisions (b) and (c), the board may by notice of levy, served personally or by first-class mail, require all persons having in their possession, or under their control, any credits or other personal property belonging to a person liable for any amount under this part to withhold from those credits or other personal property the amount of any tax, interest, or penalties due from that person, or the amount of any liability incurred by him or her under this part, and to transmit the amount withheld to the board at such times as it may designate.

(b) The person served shall continue to withhold pursuant to the notice of levy until the amount specified in the notice, including accrued interest, has been paid in full, until the notice is withdrawn, or until one year from the date the notice is received, whichever occurs first.

(c) The amount required to be withheld is the lesser of the following:

(1) The amount due stated on the notice.

(2) The amount of each payment due or becoming due to the person liable during the period of the levy.

(d) For the purposes of this section, "payment" does not include earnings as that term is defined in subdivision (a) of Section 706.011 of the Code of Civil Procedure or funds in a deposit account as defined in Section 9105 of the Commercial Code. "Payment" does include any of the following:

(1) Any payment due for services of an independent contractor, dividends, rents, royalties, residuals, patent rights, mineral or other natural rights.

(2) Any payment or credit due or becoming due periodically as the result of an enforceable obligation to the person liable for the tax.

(3) Any other payment or credit due or becoming due the person liable as the result of a written or oral contract for services or sales whether denominated as wages, salary, commission, bonus, or otherwise.

(e) In the case of a financial institution, to be effective, the notice

shall state the amount due from the taxpayer and shall be delivered or mailed to the branch or office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

Article 2. Suit for Tax

60421. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, or within the period during which a lien is in force as the result of the filing of a notice of state tax lien under Section 7171 of the Government Code, the board may bring an action in the courts of this state, of any other state, or of the United States in the name of the state to collect the amount delinquent together with penalties and interest.

60422. In the action a writ of attachment may be issued in the manner provided by Chapter 5 (commencing with Section 485.010) of Title 6.5 of Part 2 of the Code of Civil Procedure without the showing required by Section 485.010 of the Code of Civil Procedure.

60423. In the action a certificate by the board showing the delinquency shall be prima facie evidence of the levy of the tax of the delinquency of the amount of tax, interest, and penalty set forth, and of compliance by the board with all provisions of this part in relation to the computation and levy of the tax.

Article 3. Lien of Tax

60441. Notwithstanding Section 60445, the tax, interest, and penalties are a lien upon and have the effect of an execution duly levied against any qualified motor vehicle in which diesel fuel taxable under this part is used and against any personal property of the interstate trucker.

60442. The lien arising under Section 60441 attaches at the time a qualified motor vehicle is operated in this state through the use of diesel fuel taxable under this part.

60443. The lien arising under Section 60441 shall not be removed until the tax, interest, and penalties are paid or the qualified motor vehicle or other property subject to the lien is sold in payment thereof.

60444. The lien arising under Section 60441 as to the tax and interest, but exclusive of penalties, upon personal property is paramount to all private liens or encumbrances of whatever character, and to the rights of any conditional vendor or any other holder of the legal title, in or to any qualified motor vehicle that is operated in this state through the use of diesel fuel taxable under this part.

60445. (a) If any person fails to pay any amount imposed under this part at the time that it becomes due and payable, the amount

thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. That lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the board before the date the return is delinquent, the date the return would have been delinquent.

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the board.

(3) For amounts determined under Section 60330 (pertaining to jeopardy assessments), the date the notice of the board's finding is mailed or issued.

(4) For all other amounts, the date the assessment is final.

Article 4. Warrant for Collection of Tax

60451. At any time within three years after any person is delinquent in the payment of any amount required by this part to be paid or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, the board or its authorized representative may issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

60452. The board may pay or advance to the sheriff, marshal, or constable, the same fees, commissions, and expenses for his or her services as are provided by law for similar services pursuant to a writ of execution. The board, and not the court, shall approve the fees for publication in a newspaper.

60453. The fees, commissions, and expenses are the obligation of the person required to pay any amount under this part and may be collected from him or her by virtue of the warrant or in any other manner provided in this part for the collection of the tax.

Article 5. Seizure and Sale

60461. Whenever any person is delinquent in the payment of the obligations imposed under this part, the board or its authorized representative may seize any property, real or personal, subject to the lien of the tax and thereafter sell the property, or a sufficient part of it, at public auction to pay the tax due together with any interest and penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.

60462. Notice of the sale and the time and place thereof shall be

given in writing at least 20 days before the date set for the sale to the delinquent person and to all persons who have an interest of record in the property seized. The notice shall be personally served or enclosed in an envelope addressed to the person at his or her last known residence or place of business in this state. If not personally served, the notice shall be deposited in the United States mail, postage prepaid. The notice shall be published pursuant to Section 6063 of the Government Code, in a newspaper of general circulation published in the city in which the property or a part thereof is situated if any part thereof is situated in a city or, if not, in a newspaper of general circulation published in the county in which the property or a part thereof is located. Notice shall also be posted in both of the following manners:

(a) One public place in the city in which the interest in property is to be sold if it is to be sold in a city or, if not to be sold in a city, one public place in the county in which the interest in the property is to be sold.

(b) One conspicuous place on the property.

The notice shall contain a description of the property to be sold, a statement of the amount due, including tax, penalties, interest, and costs, the name of the person, and the further statement that unless the amount is paid on or before the time fixed in the notice of sale, the property, or so much of it as may be necessary, will be sold in accordance with law and the notice.

60462.5. The board may seize any qualified motor vehicle subject to the lien of the tax and thereafter sell the qualified motor vehicle at private sale to pay the tax due, together with any interest and penalties imposed for the delinquency and any costs incurred on account of the seizure and sale.

60462.6. Notice of the sale shall be given in writing to the delinquent person and to all persons who have an interest of record in the qualified motor vehicle at least 10 days before the date set for the sale of the qualified motor vehicle. The notice shall be enclosed in an envelope addressed to the person at his or her last known residence or place of business and, in the case of any person who has an interest of record in the qualified motor vehicle, addressed to the person at his or her last known residence or place of business. It shall be deposited in the United States mail, postage prepaid. The notice shall contain a description of the qualified motor vehicle to be sold, a statement of the amount due, interest, penalties, and costs, the name of the person, and the further statement that unless the tax due, interest, penalties, and costs are paid within 10 days the qualified motor vehicle will be sold at private sale.

60463. At any sale the board or its authorized agent shall sell the property in accordance with the law and the notice and shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests title in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the taxpayer.

60464. If upon any sale the moneys received exceed the amount due to the state from the taxpayer, the board shall return the excess to the taxpayer and obtain his or her receipt. If any person having an interest in or lien upon the property files with the board prior to the sale notice of his or her interest or lien, the board shall withhold payment of any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the taxpayer is not available, the board shall deposit the excess moneys with the Treasurer, as trustee for the taxpayer, his or her heirs, successors, or assigns.

Article 6. Successor Withholding and Liability

60471. If any person liable for any amount under this part sells out his or her business or stock of goods or quits the business, his or her successor or assign shall withhold from the purchase price an amount sufficient to cover that amount until the former owner produces a receipt from the board showing that it has been paid or a certificate stating that no amount is due.

60472. (a) If the purchaser of a business or stock of goods fails to withhold the purchase price as required, he or she becomes personally liable for the payment of the amount required to be withheld by him or her to the extent of the purchase price valued in money.

(b) (1) Within 60 days after the latest of the dates specified in paragraph (2), the board shall either issue the certificate or mail notice to the purchaser at his or her address as it appears on the records of the board of the amount that is required to be paid as a condition of issuing the certificate.

(2) For purposes of paragraph (1), the latest of the following dates shall apply:

(A) The date the board receives a written request from the purchaser for a certificate.

(B) The date the former owner's records are made available for audit.

(c) Failure of the board to mail the notice referred to in subdivision (b) shall release the purchaser from any further obligation to withhold the purchase price under this article. The time within which the obligation of the successor may be enforced shall begin to run at the time the person sells out his or her business or stock of goods or at the time that the determination against the person becomes final, whichever event occurs later.

60473. The certificate may be issued after the payment of all amounts due under this part, according to the records of the board as of the date of the certificate, or after the payment of the amounts is secured to the satisfaction of the board.

60474. The obligation of the successor shall be enforced by serving a notice of successor liability on the person. The notice shall be served in the manner prescribed for service of a notice of a

deficiency determination, not later than three years after the date the board is notified of the purchase of the business or stock of goods. The successor may petition for reconsideration in the manner provided in Article 5 (commencing with Section 60350) of Chapter 6. The notice shall become final and the amount due and payable in the manner provided in that article except that no additional penalty shall apply if not paid when due and payable. This chapter, with respect to the collection of any amount required to be paid under this part, shall apply when the notice becomes final.

Article 7. Miscellaneous Provisions

60491. The remedies of the state provided for in this chapter are cumulative, and no action taken by the board constitutes an election by the state to pursue any remedy to the exclusion of any other remedy for which provision is made in this part.

CHAPTER 8. OVERPAYMENT AND REFUNDS

Article 1. Refunds on Certain Sales and Uses

60501. Persons who have paid a tax for diesel fuel used in a nontaxable use, other than on a farm for farming purposes or in an exempt bus operation, shall, except as otherwise provided in this part, be reimbursed and repaid the amount of the tax.

(a) A claim for refund with respect to diesel fuel is allowed under this section only if all of the following apply:

(1) Tax was imposed on the diesel fuel to which the claim relates.

(2) The claimant bought or produced the diesel fuel and did not sell or resell it in this state.

(3) The claimant has filed a timely claim for refund that contains the information required under subdivision (b) and the claim is supported by the original invoice showing the purchase.

(4) The diesel fuel was any of the following:

(A) Used for purposes other than operating motor vehicles upon the public highways of the state.

(B) Exported for use outside of this state. Diesel fuel carried from this state in the fuel tank of a motor vehicle is not deemed to be exported from this state unless the diesel fuel becomes subject to tax as an import under the laws of the destination state.

(C) Used in any construction equipment that is exempt from vehicle registration pursuant to the Vehicle Code, while operated within the confines and limits of a construction project.

(D) Used in the operation of a motor vehicle on any highway that is under the jurisdiction of the United States Department of Agriculture and with respect to the use of the highway the claimant pays, or contributes to, the cost of construction or maintenance thereof pursuant to an agreement with, or permission of, the United States Department of Agriculture.

(E) Used in any motor vehicle owned by any county, city and county, city, district, or other political subdivision or public agency when operated by it over any highway constructed and maintained by the United States or any department or agency thereof within a military reservation in this state. If the motor vehicle is operated both over the highway and over a public highway outside the military reservation in a continuous trip the tax shall not be refunded as to that portion of the diesel fuel used to operate the vehicle over the public highway outside the military reservation.

Nothing contained in this section shall be construed as a refund of the tax for the use of diesel fuel in any motor vehicle operated upon a public highway within a military reservation, which highway is constructed or maintained by this state or any political subdivision thereof.

As used in this section, "military reservation" includes any establishment of the United States government or any agency thereof used by the armed forces of the United States for military, air, or naval operations, including research projects.

(F) Sold by a supplier to any consulate officer or consulate employee under circumstances which would have entitled the supplier to an exemption under paragraph (6) of subdivision (a) of Section 60100 if the supplier had sold the diesel fuel directly to the consulate officer or consulate employee.

(b) Each claim for refund under this section shall contain the following information with respect to all the diesel fuel covered by the claim:

(1) The name, address, telephone number, and permit number of the person that sold the diesel fuel to the claimant and the date of the purchase.

(2) A statement by the claimant that the diesel fuel covered by the claim did not contain visible evidence of dye.

(3) A statement, which may appear on the invoice or similar document, by the person that sold the diesel fuel to the claimant that the diesel fuel sold did not contain visible evidence of dye.

(4) The total amount of diesel fuel covered by the claim.

(5) The use made of the diesel fuel covered by the claim described by reference to specific categories listed in paragraph (4) of subdivision (a).

(6) If the diesel fuel covered by the claim was exported, a statement that the claimant has the proof of exportation.

60502. (a) Any ultimate vendor who has paid a tax on diesel fuel sold to an ultimate purchaser for use on a farm for farming purposes or use in an exempt bus operation shall, except as otherwise provided in this part, be reimbursed and repaid the amount of the tax.

(b) A claim for refund with respect to diesel fuel is allowed under this section only if all of the following apply:

(1) Tax was imposed on the diesel fuel to which the claim relates.

(2) The claimant sold the diesel fuel to the ultimate purchaser for use on a farm for farming purposes or for use in an exempt bus

operation.

(3) The claimant is a registered ultimate vendor.

(4) The claimant has filed a timely claim for refund that contains the information required under subdivision (c) and the claim is supported by the original invoice showing the purchase.

(c) Each claim for refund under this section shall contain the following information with respect to all the diesel fuel covered by the claim:

(1) The claimant's permit number.

(2) The name, address, telephone number, and permit number of each person that sold the diesel fuel to the claimant and the date of the purchase.

(3) The name, address, telephone number, and federal taxpayer identification number of each farmer or the permit number of each exempt bus operator that bought the diesel fuel from the claimant and the number of gallons that the claimant sold to each.

(4) A statement that the diesel fuel covered by the claim did not contain visible evidence of dye.

(5) The total amount of diesel fuel covered by the claim.

(6) A statement that the claimant has not included the amount of the tax in its sales price of the diesel fuel and has not collected the amount of tax from its buyer.

(7) A statement that the claimant has in its possession an unexpired exemption certificate described in Section 60503 and the claimant has no reason to believe any information in the certificate is false.

60502.1. No tax shall be included in the sales price or on the sales invoice by the ultimate vendor on diesel fuel sold to an ultimate purchaser.

60502.2. Notwithstanding the refund provided for by Section 60502 and the exemption provided for by subparagraph (B) of paragraph (5) of subdivision (a) of Section 60100, any exempt bus operation using diesel fuel on which the tax has been refunded under Section 60502 or exempt from tax under subparagraph (B) of paragraph (5) of subdivision (a) of Section 60100 shall, for the privilege of operating buses on state highways and freeways, make a payment equal to one cent ($0.01) for each gallon of the refunded or exempt diesel fuel used. The payments required by this subdivision shall be paid to the State Board of Equalization in the manner prescribed by the board, and the payments shall be treated as a tax for all purposes of this part.

60503. (a) The certificate to be provided to the ultimate vendor consists of a statement that is signed under penalty of perjury by a person with authority to bind the buyer. A new certificate shall be given if any information in the current certificate changes. The certificate may be included as part of any business records normally used to document a sale. The certificate expires on the earliest of the following dates:

(1) The date one year after the effective date of the certificate

(which may be not earlier than the date it is signed).

(2) The date a new certificate is provided to the seller.

(b) The certificate for a farmer is the "CERTIFICATE OF FARMER OR STATE OR LOCAL GOVERNMENT UNIT" required by the Internal Revenue Service.

(c) The certificate for an exempt bus operator is a copy of the exempt bus operator's license issued by the board.

60503.1. If a purchaser gives a Section 60503 exemption certificate to an ultimate vendor to the effect that the diesel fuel purchased will be used on a farm for farming purposes or in an exempt bus operation, and sells the diesel fuel or uses the diesel fuel in some other manner or for some other purpose, the purchaser will be liable for payment of the tax under Chapter 2 (commencing with Section 60050) of this part as if the purchaser were a supplier of the diesel fuel at the time of that sale or use.

60503.2. (a) Any person, including any officer or employee of a corporation, who gives a Section 60503 exemption certificate for diesel fuel that he or she knows at the time of purchase is not to be used by him or her or the corporation on a farm for farming purposes or in an exempt bus operation, for the purpose of evading payment to the ultimate vendor of the amount of the tax applicable to the transaction, is guilty of either a misdemeanor punishable as provided in Section 60706 or a felony punishable as provided in Section 60707.

(b) Any person, including any officer or employee of a corporation, who gives an exemption certificate for diesel fuel pursuant to Section 60503 that he or she knows at the time of purchase is not to be used by him or her or the corporation on a farm for farming purposes or in an exempt bus operation, is liable to the state for the amount of tax that would be due if he or she had not given that certificate. In addition to the tax, the person shall be liable to the state for a penalty of 25 percent of the tax or five hundred dollars ($500) whichever is greater, for each purchase made for personal gain or to evade the payment of taxes.

60504. For the purpose of refund claims filed pursuant to this article, diesel fuel containing a de minimis quantity of dye shall not be considered diesel fuel containing visible evidence of dye.

60505. The board, upon the presentation of the claim and the invoice, shall cause to be paid to the claimant from the taxes collected under this part an amount equal to the taxes collected on the diesel fuel with respect to which the refund is claimed under this article, without obtaining approval of the State Board of Control for any amount not exceeding two hundred thousand dollars ($200,000). For any amount in excess of two hundred thousand dollars ($200,000) claimed under this article, the board shall set forth the facts of the refund in its records and certify to the State Board of Control the amount to be refunded and the person to whom the refund is due. If the State Board of Control approves, the board shall cause to be paid to the claimant the amount of the approved refund claimed under this article.

60506. In order to establish the validity of any claim, the board may, upon demand, examine the books and records of the claimant for that purpose. The failure of the claimant to accede to that demand constitutes a waiver of any right to the refund claimed on account of the transactions questioned.

60507. All applications for refund provided under this article shall be filed within three years from the date of the purchase of the diesel fuel. Any application filed after the time prescribed shall not be considered for any purpose by the board, the Treasurer, or the state.

60508. In lieu of the collection and refund of the tax on diesel fuel used by a supplier in the manner as would entitle a purchaser to claim refund under this article, credit may be given the supplier upon the supplier's tax return and the determination of the amount of the supplier's tax.

60508.1. In lieu of the collection and refund of the tax on diesel fuel sold to a consulate officer or consulate employee of a foreign government by a supplier who would be entitled to claim a refund under subdivision (a) of Section 60501, a credit may be given the supplier upon the supplier's tax return and the determination of the amount of the supplier's tax shall be in accordance with any rules and regulations that the board may prescribe.

60508.2. In lieu of the collection and refund of the tax on diesel fuel sold to an ultimate purchaser for use on a farm for farming purposes or for use in an exempt bus operation by a supplier who would be entitled to a claim for refund under Section 60502, a credit may be given the supplier upon the supplier's tax return and the determination of the amount of the supplier's tax shall be in accordance with any rules and regulations that the board may prescribe.

60509. In lieu of the collection and refund of the tax on diesel fuel exported by a supplier for use outside the state in the manner as would entitle a supplier to claim a refund under subdivision (a) of Section 60501, credit may be given the supplier upon the supplier's tax return and the determination of the amount of the supplier's tax shall be in accordance with the rules and regulations that the board may prescribe.

60510. No refund shall be granted for losses in handling, transporting, or storing diesel fuel.

60511. Interest shall be paid upon any refund of tax at the modified adjusted rate per month established pursuant to Section 6591.5 from the last day of the month following the day the diesel fuel was purchased.

The interest shall be paid to the last day of the month following the date upon which the claim is approved by the board.

No interest shall be granted on credits taken on tax returns.

Article 2. Claim for Refunds of Licensed Suppliers, Interstate Truckers, Exempt Bus Operators, Highway Vehicle Operators, and End Sellers

60521. If the board determines that any amount not required to be paid under this part has been paid by any person that is a licensed supplier, interstate trucker, exempt bus operator, highway vehicle operator, or end seller, the board shall set forth that fact in its records and certify to the State Board of Control the amount paid in excess of the amount legally due and the person by whom the excess was paid to the board or from whom it was collected. If the State Board of Control approves, the excess amount paid or collected shall be credited on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall either be refunded to the person, or his or her successors, administrators, executors, or assigns, or, if authorized by the board, deducted by the person from any amounts to become due from him or her under this part.

However, in the case of a determination by the board that an amount not exceeding fifty thousand dollars ($50,000) was not required to be paid under this part, the board without obtaining the approval of the State Board of Control, may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors.

60522. (a) Except as provided in subdivision (b), no refund under Section 60521 shall be approved by the board after three years from the last day of the month following the reporting period for which the overpayment was made, or, with respect to determinations made under Article 2 (commencing with Section 60301), Article 3 (commencing with Section 60310), or Article 4 (commencing with Section 60330) of Chapter 6, after six months from the date the determinations became final, or after six months from the date of overpayment, whichever period expires the later, unless a claim therefor is filed with the board within that period. No credit shall be approved by the board after the expiration of the period unless a claim for credit is filed with the board within that period or unless the claim relates to a period for which a waiver has been given pursuant to Section 60317.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 60317 if a claim therefor is filed with the board before the expiration of the period agreed upon.

60523. The claim shall be in writing and shall state the specific grounds upon which it is founded.

60524. Interest shall be paid upon any overpayment of any amount of tax at the modified adjusted rate per month established pursuant to Section 6591.5 from the last day of the month following the reporting period during which the overpayment is made. In addition, a refund or credit shall be made of any interest imposed

upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

60525. If the board determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

Article 3. Suit for Refund

60541. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this part of any tax or other amounts required to be collected or to prevent or enjoin the revocation of any permit issued under this part or any other action whereby it is sought to enforce the payment of any tax or other amounts required to be paid.

60542. No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally assessed or collected unless a claim for refund or credit has been duly filed.

60543. Within 90 days after the mailing of the notice of the board's action upon a claim for refund or credit, the claimant may bring an action against the board on the grounds set forth in the claim in a court of competent jurisdiction in the County of Sacramento for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

60544. If the board fails to mail notice of action on a claim within six months after the claim is filed, the claimant may, prior to the mailing of notice by the board, consider the claim disallowed and bring an action against the board on the grounds set forth in the claim for recovery of the whole or any part of the amount claimed as an overpayment.

60545. Failure to bring suit or action within the time specified in this article constitutes a waiver of all demands against the state on account of any alleged overpayment.

60546. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any amounts due from the plaintiff under this part, Part 2 (commencing with Section 7301), and Part 3 (commencing with Section 8601), and the balance of the judgment shall be refunded to the plaintiff.

60547. In any judgment, interest shall be allowed at the modified adjusted rate per annum established pursuant to Section 6591.5 upon the amount found to have been illegally collected from the date of payment thereof to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

60548. A judgment shall not be rendered in favor of the plaintiff in any action brought against the board to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the tax or by any person other than the person who paid the tax.

Article 4. Recovery of Erroneous Refunds

60561. (a) The board may recover any refund or part thereof that is erroneously made and any credit or part thereof that is erroneously allowed in an action brought in a court of competent jurisdiction in the County of Sacramento in the name of the people of the State of California.

(b) As an alternative to subdivision (a) in recovering the erroneous refunds or credits, the board, in its discretion, may issue a deficiency determination in accordance with Article 3 (commencing with Section 60310) or Article 4 (commencing with Section 60330) of Chapter 6. Except in the case of fraud, the determination shall be made within three years from the last day of the month following the reporting period in which the board certifies that the amount collected was in excess of the amount legally due.

Article 5. Cancellations

60581. If any amount in excess of fifty thousand dollars ($50,000) has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally determined either by the person filing a return or by the board, the board, without certifying this fact to the State Board of Control, shall authorize the cancellation of the amount upon the records of the board.

CHAPTER 9. ADMINISTRATION

Article 1. Administration

60601. The board shall enforce this part and may prescribe,

adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The board may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

60602. The board may employ attorneys, accountants, auditors, investigators, and other expert and clerical assistance necessary for the efficient administration of this part.

60603. (a) Officers or employees of the state, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized to enter any place and to conduct inspections in accordance with paragraphs (1) to (6), inclusive.

(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(2) Inspections may be at any place at which taxable diesel fuel is (or may be) produced or stored or at any inspection site where evidence of activities involving evasion may be discovered. These places may include, but are not limited to, any terminal, any diesel fuel storage facility that is not a terminal, any retail diesel fuel facility, or any designated inspection site.

(3) A designated inspection site is any state highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the Internal Revenue Service to be used as a diesel fuel inspection site. A designated inspection site shall be identified as a diesel fuel inspection site.

(4) Officers or employees may physically inspect, examine, or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of diesel fuel, diesel fuel dyes, or diesel fuel markers. Inspection may also be made of any equipment used for, or in connection with, production, storage, or transportation of diesel fuel, diesel fuel dyes, or diesel fuel markers. This includes any equipment used for the dyeing or marking of diesel fuel. This includes the books and records kept to determine tax liability.

(5) Officers or employees may detain any vehicle, train, or vessel for the purpose of inspecting its fuel tanks and storage tanks. Detainment will be either on the premises under inspection or at a designated inspection site. Detainment may continue for a reasonable period of time as is necessary to determine the amount and composition of the diesel fuel.

(6) Officers or employees may take and remove samples of diesel fuel in reasonable quantities as necessary to determine its composition.

(b) Any person that refuses to allow an inspection may be fined one thousand dollars ($1,000) for each refusal. This penalty is in addition to any other penalty or tax that may be imposed upon that person or any other person liable for tax or penalty.

60604. Every interstate trucker, supplier, exempt bus operator, ultimate vendor, highway vehicle operator, train operator, and every

person dealing in, removing, transporting, or storing diesel fuel in this state shall keep those records, receipts, invoices, and other pertinent papers with respect thereto in that form as the board may require. Failure to maintain records will constitute a misdemeanor punishable as provided in Section 60706.

60605. (a) Each terminal operator shall keep the following information with respect to each rack removal of diesel fuel at each terminal it operates:

(1) The bill of lading or other shipping document.

(2) The record of whether the diesel fuel was dyed in accordance with the United States Environmental Protection Agency or Internal Revenue Service requirements.

(3) The volume and date of the removal.

(4) The identity of the position holder or position holder's customer.

(5) Any other information required by the Internal Revenue Service pursuant to Section 48.4101-3T of Title 26 of the Code of Federal Regulations.

(b) The terminal operator shall maintain the information described in this section at the terminal from which the removal occurred for at least three months after the removal to which it relates.

60606. The board or its authorized representative may examine the books, records, and equipment of any interstate trucker, supplier, exempt bus operator, ultimate vendor, highway vehicle operator, train operator, or person dealing in, removing, transporting, or storing diesel fuel and may investigate the character of the disposition that the interstate trucker, supplier, exempt bus operator, ultimate vendor, highway vehicle operator, train operator, or person makes of the diesel fuel in order to ascertain whether all taxes due under this part are being properly reported and paid.

60607. As this state is the source of petroleum products for other states, if the examination or investigation necessitates collaboration or conference with motor vehicle fuel tax officials of other states, at places inside or outside this state, the collaboration or conference is declared to be a necessary function in the administration of this part.

60608. Upon request from the officials to whom is entrusted the enforcement of the motor fuel tax law of another government, the board may furnish to those officials the information in the possession of the board that is deemed essential to the enforcement of the motor fuel tax laws.

Any information so furnished shall not be used for any purpose other than that for which it was furnished.

60609. It is unlawful for the board or any person having an administrative duty under this part to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and equipment of any person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof set

forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except to another government as outlined in Section 60608. Information respecting the tax due from a person may be furnished, however, to any person owning or having an interest in a qualified motor vehicle or property subject to the lien of the tax. The Governor may, by general or special order, authorize examination by other state officers, by tax officers of another state, by the federal government, if a reciprocal arrangement exists, or by any other person of the records maintained by the board under this part. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public. Successors, receivers, trustees, executors, administrators, assignees, and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest, and penalties.

60610. A certificate by the board or an employee of the board stating that a notice required by this part was given by mailing or personal service shall be prima facie evidence in any administrative or judicial proceeding of the fact and regularity of the mailing or personal service in accordance with any requirement of this part for the giving of a notice. Unless otherwise specifically required, any notice provided by this part to be mailed or served may be given either by mailing or by personal service in the manner provided for giving notice of a deficiency determination.

Article 2. The California Taxpayers' Bill of Rights

60621. The board shall administer this article. Unless the context indicates otherwise, the provisions of this article shall apply to this part.

60622. (a) The board shall establish the position of the Taxpayers' Rights Advocate. The advocate or his or her designee shall be responsible for facilitating resolution of taxpayer complaints and problems, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by board employees, and staying actions where taxpayers have suffered or will suffer irreparable loss as the result of those actions. Applicable statutes of limitation shall be tolled during the pendency of a stay. Any penalties and interest that would otherwise accrue shall not be affected by the granting of a stay.

(b) The advocate shall report directly to the executive officer of the board.

60623. (a) The board shall develop and implement an education and information program directed at, but not limited to, all of the following groups:

(1) Taxpayers newly registered with the board.

(2) Board audit and compliance staff.

(b) The education and information program shall include all of the following:

(1) A program of written communication with newly registered taxpayers explaining in simplified terms their duties and responsibilities.

(2) Participation in seminars and similar programs organized by federal, state, and local agencies.

(3) Revision of taxpayer educational materials currently produced by the board that explain the most common areas of taxpayer nonconformance in simplified terms.

(4) Implementation of a continuing education program for audit personnel to include the application of new legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(c) Electronic media used pursuant to this section shall not represent the voice, picture, or name of members of the board or of the Controller.

60624. The board shall conduct an annual hearing before the full board where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Diesel Fuel Tax Law which may further improve voluntary compliance and the relationship between taxpayers and government.

60625. The board shall prepare and publish brief but comprehensive statements in simple and nontechnical language that explain procedures, remedies, and the rights and obligations of the board and taxpayers. As appropriate, statements shall be provided to taxpayers with the initial notice of audit, the notice of proposed additional taxes, any subsequent notice of tax due, or other substantive notices. Additionally, the board shall include this language for statements in the annual tax information bulletins that are mailed to taxpayers.

60626. (a) The total amount of revenue collected or assessed pursuant to this part shall not be used for any of the following:

(1) To evaluate individual officers or employees.

(2) To impose or suggest production quotas or goals, other than quotas or goals with respect to accounts receivable.

(b) The board shall certify in its annual report submitted pursuant to Section 15616 of the Government Code that revenue collected or assessed is not used in a manner prohibited by subdivision (a).

(c) Nothing in this section shall prohibit the setting of goals and the evaluation of performance with respect to productivity and the efficient use of time.

60627. The board shall develop and implement a program that will evaluate an individual employee's or officer's performance with respect to his or her contact with taxpayers. The development and implementation of the program shall be coordinated with the Taxpayers' Rights Advocate.

60628. The board shall, in cooperation with the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a

plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include determination of standard timeframes and special review of cases that take more time than the appropriate standard timeframe.

60629. Procedures of the board, relating to appeals staff review conferences before a staff attorney or supervising tax auditor independent of the assessing department, shall include all of the following:

(a) Any conference shall be held at a reasonable time at a board office that is convenient to the taxpayer.

(b) The conference may be recorded only if prior notice is given to the taxpayer and the taxpayer is entitled to receive a copy of the recording.

(c) The taxpayer shall be informed prior to any conference that he or she has a right to have present at the conference his or her attorney, accountant, or other designated agent.

60630. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the State Board of Control.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board makes a recommendation to the State Board of Control that the taxpayer be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(4) The State Board of Control concurs with the recommendation and orders the board to provide reimbursement of fees and expenses to the taxpayer.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

60631. (a) An officer or employee of the board acting in connection with any law administered by the board shall not knowingly authorize, require, or conduct any investigation of, or surveillance over, any person for non-tax-administration-related purposes.

(b) Any person violating subdivision (a) shall be subject to disciplinary action in accordance with the State Civil Service Act, including dismissal from office or discharge from employment.

(c) This section shall not apply with respect to any otherwise lawful investigation concerning organized crime activities.

(d) The provisions of this section are not intended to prohibit, restrict, or prevent the exchange of information where the person is being investigated for multiple violations which include diesel fuel tax violations.

(e) For the purposes of this section:

(1) "Investigation" means any oral or written inquiry directed to any person, organization, or governmental agency.

(2) "Surveillance" means the monitoring of persons, places, or events by means of electronic interception, overt or covert observations, or photography, and the use of informants.

60632. (a) The board shall release any levy or notice to withhold issued pursuant to this part on any property in the event the expense of the sale process exceeds the liability for which the levy is made.

(b) The board shall not sell any seized property until it has first notified the taxpayer in writing of the exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure.

(c) This section shall not apply to the seizure of any property as a result of a jeopardy assessment.

60633. Exemptions from levy under Chapter 4 (commencing with Section 703.010) of Title 9 of the Code of Civil Procedure shall be adjusted for purposes of enforcing the collection of debts under this part to reflect changes in the California Consumer Price Index whenever the change is more than 5 percent higher than any previous adjustment.

60634. For the purposes of this part only, the board shall not revoke or suspend a person's license pursuant to Section 60180 or 60181 unless the board has mailed a notice preliminary to revocation or suspension that indicates that the taxpayer will be suspended by a date certain pursuant to that section. The notice preliminary to suspension shall be mailed to the taxpayer at least 60 days before the date certain.

60635. (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs, including any of the following:

(A) Reasonable court costs.

(B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be

compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars ($75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

(d) Whenever it appears to the court that the taxpayer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars ($10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

CHAPTER 10. DISTRIBUTION OF PROCEEDS

60651. The board shall transmit all money received by it under this part, except the amounts of overpayment of the fees required by Section 60185, to the Treasurer to be deposited in the State Treasury to the credit of the Motor Vehicle Fuel Account in the Transportation Tax Fund. The board shall at the same time furnish copies of the schedules covering the transmittals to the Controller.

60652. Notwithstanding Section 13340 of the Government Code, all moneys deposited in the account under this part are hereby continuously appropriated, without regard to fiscal years, as follows:

(a) To pay the refunds authorized in this part.

(b) The balance shall be transferred to the Highway Users Tax Account in the Transportation Tax Fund as provided in this chapter.

60653. The Controller shall make the transfers to the Highway Users Tax Account in the Transportation Tax Fund pursuant to Section 60652 at the same time as the transfers of moneys received under the Motor Vehicle Fuel License Tax Law are made.

60654. Any costs to the board to carry out any duties imposed upon it by this part shall be paid, upon appropriation by the Legislature, from the moneys deposited in the account under this part.

CHAPTER 11. VIOLATIONS

60701. It is unlawful for any person, firm, association, or corporation, or any officer or agent thereof, through false statement, trick or device, or otherwise, to do any of the following:

(a) Obtain diesel fuel for export and fail to export it, or cause it not to be exported.

(b) Divert diesel fuel, or cause it to be diverted, from interstate or foreign transit begun in this state.

(c) Return diesel fuel to this state and sell or use it, or cause it to be used or sold in this state, without complying with the provisions of this part and without notifying the supplier from whom the diesel fuel was originally purchased of that act.

Any person violating any provision of this section is guilty of a misdemeanor punishable as provided in Section 60706.

Each shipment illegally diverted or illegally returned constitutes a separate offense. The unit of each shipment is the cargo of one vessel, one railroad car load, one automobile truck load, one truck and trailer load, one drum, one case, or one can.

60702. It is unlawful for any supplier or other person to conspire with any person, firm, association, or corporation, or any officer or agent thereof, to withhold diesel fuel from export, or to divert it from interstate or foreign transit begun in this state, or to return it to this state for sale or use so as to avoid any of the taxes imposed by this part.

Each shipment illegally diverted or illegally returned constitutes a separate offense. The unit of each shipment is the cargo of one vessel, one railroad car load, one automobile truck load, one truck and trailer load, one drum, one barrel, one case, or one can.

Any person violating any provision of this section is guilty of a misdemeanor punishable as provided in Section 60706.

60703. Any person who acquires diesel fuel outside this state and uses the diesel fuel for the operation of a qualified motor vehicle within and without this state or the United States, is guilty of a misdemeanor punishable as provided in Section 60706 unless that person is an interstate trucker who holds a valid diesel fuel tax license or diesel fuel trip permit as defined in Sections 60120 and 60122.

60704. Any person who makes, issues or signs a false or fraudulent claim for refund under this part is guilty of a misdemeanor punishable as provided in Section 60706.

60705. (a) Any person required to make, render, sign, or verify any return or report who makes any false or fraudulent return or report with intent to defeat or evade the determination of an amount due required by law to be made is guilty of a misdemeanor punishable as provided in Section 60706.

(b) Any person who willfully aids or assists in, or procures, counsels, or advises in the preparation or presentation under, or in connection with any matter arising under this part, of a return, affidavit, claim, or other document which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document is guilty of a misdemeanor punishable as provided in Section 60706.

60706. Any violation of this part, except as otherwise provided, is

a misdemeanor. Each offense shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or by imprisonment in a county jail not exceeding six months, or by both fine and imprisonment in the discretion of the court.

60707. Notwithstanding any other provision of this part, any person who willfully evades or attempts in any manner to evade or defeat the payment of the tax imposed by this part is guilty of a felony when the amount of tax liability aggregates twenty-five thousand dollars ($25,000) or more in any 12-consecutive-month period. Each offense shall be punished by a fine of not less than five thousand dollars ($5,000) and not more than twenty thousand dollars ($20,000), or imprisonment for 16 months, or two, or three years, or both the fine and imprisonment in the discretion of the court.

60708. Any prosecution for violation of any of the penal provisions of this part shall be instituted within three years after the commission of the offense, or within two years after the violation is discovered, whichever is later.

60709. (a) Any person who willfully evades or attempts to evade or defeat the payment of the taxes imposed by this part is subject to a penalty. He or she shall for each offense be subject to a penalty of ten dollars ($10) for every gallon of diesel fuel involved or one thousand dollars ($1,000), whichever is greater. The penalty shall be increased for subsequent violations by multiplying the penalty amount by the number of prior violations. The penalty applies in any of the following circumstances:

(1) If any dyed diesel fuel is sold or held for sale by any person for any use that the person knows or has reason to know is not a nontaxable use of the diesel fuel.

(2) If any dyed diesel fuel is held for use or used by any person for a use other than a nontaxable use and that person knew, or had reason to know, that the diesel fuel was so dyed.

(3) If any person willfully alters, or attempts to alter, the strength or composition of any dye or marker in any dyed diesel fuel.

(b) Any business entity, and each officer, employee, or agent of the entity, who willfully participated in any act giving rise to the penalty is jointly and severally liable for the penalty.

SEC. 18. Section 60505 is added to Article 1 (commencing with Section 60501) of Chapter 8 of Part 31 of Division 2 of the Revenue and Taxation Code, to read:

60505. The board, upon the presentation of the claim and the invoice, shall cause to be paid to the claimant from the taxes collected under this part an amount equal to the taxes collected on the diesel fuel with respect to which the refund is claimed under this article.

SEC. 19. Section 60521 is added to the Revenue and Taxation Code, to read:

60521. If the board determines that any amount not required to be paid under this part has been paid by any person that is a licensed supplier, interstate trucker, exempt bus operator, highway vehicle

operator, or end seller, the board shall set forth that fact in its records and certify the amount paid in excess of the amount legally due and the person by whom the excess was paid to the board or from whom it was collected. The excess amount paid or collected shall be credited on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall either be refunded to the person, or his or her successors, administrators, executors, or assigns, or, if authorized by the board, deducted by the person from any amounts to become due from him or her under this part.

For any amount exceeding fifty thousand dollars ($50,000), the board's proposed determination under this section shall be available as a public record for at least 10 days prior to the effective date of the determination.

SEC. 20. Article 5 (commencing with Section 60581) is added to Chapter 8 of Part 31 of Division 2 of the Revenue and Taxation Code, to read:

Article 5. Cancellations

60581. If any amount has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and certify the amount determined to be in excess of the amount legally due and the person against whom the determination was made.

For any amount exceeding fifty thousand dollars ($50,000), the board's proposed determination under this section shall be available as a public record for at least 10 days prior to the effective date of the determination.

SEC. 21. Section 60630 is added to the Revenue and Taxation Code, to read:

60630. (a) Every taxpayer is entitled to be reimbursed for any reasonable fees and expenses related to a hearing before the board if all of the following conditions are met:

(1) The taxpayer files a claim for the fee and expenses with the board.

(2) The board, in its sole discretion, finds that the action taken by the board staff was unreasonable.

(3) The board decides that the taxpayer shall be awarded a specific amount of fees and expenses related to the hearing, which shall be determined by the board.

(b) To determine whether the board staff has been unreasonable, the board shall consider whether the taxpayer has established that the position of the board staff was not substantially justified.

(c) The amount of reimbursed fees and expenses shall be limited to the following:

(1) Fees and expenses incurred after the date of filing petitions for redetermination and claims for refund.

(2) If the board finds that the staff was unreasonable with respect

to certain issues but reasonable with respect to other issues, the amount of reimbursed fees and expenses shall be limited to those that relate to the issues where the staff was unreasonable.

(d) The board's proposed award under this section shall be available as a public record for at least 10 days prior to the effective date of the award.

SEC. 22. For purposes of Part 31 (commencing with Section 60001) of Division 2 of the Revenue and Taxation Code, the State Board of Equalization shall do both of the following:

(a) Conduct an analysis of the use of clear diesel fuel acquired by exempt users and without tax (such as by farmers and school bus operators) and report to the Legislature by October 1, 1996, on the extent to which clear diesel fuel acquired with a tax exemption is used for nonexempt purposes.

(b) Evaluate the administrative costs and potential revenue impacts of making the use of other fuels, such as kerosene and transmix, in an internal combustion engine for the generation of power to propel a motor vehicle on the highways, subject to Part 31 (commencing with Section 60001), and report its findings to the Legislature by January 1, 1996.

SEC. 23. Sections 15, 18, 19, 20, and 21 of this act shall become operative only if Assembly Bill 3069 of the 1993–94 Regular Session is chaptered, in which case Section 14 of this act, and Sections 60505, 60521, and 60630 of, and Article 5 (commencing with Section 60581) of Chapter 8 of Part 31 of Division 2 of, the Revenue and Taxation Code, as added by Section 17 of this act, shall not become operative.

SEC. 24. Section 10.5 of this bill incorporates amendments to Section 8951 of the Revenue and Taxation Code proposed by this bill and SB 1733. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) each bill amends Section 8951 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1733, in which case Section 8951 of the Revenue and Taxation Code, as amended by SB 1733, shall remain operative only until the operative date of this bill, at which time Section 10.5 of this bill shall become operative, and Section 10 of this bill shall not become operative.

SEC. 25. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 26. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, unless otherwise specifically provided, the provisions of

this act shall become operative on July 1, 1995.

CHAPTER 913

An act to amend Section 7091 of, and to add Sections 7073.02, 7075.5, and 7088.5 to, the Government Code, relating to economic development.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 7073.02 is added to the Government Code, to read:

7073.02. Program and other incentives for purposes of subdivision (e) of Section 7073, may include the use of tax allocation bonds, special assessment bonds, bonds under the Mello-Roos Community Facilities Act of 1982, industrial development bonds, revenue bonds, private activity bonds, housing bonds, Marks-Roos bonds, certificates of participation, hospital bonds, redevelopment bonds, and school bonds, including all special provisions provided for under federal tax law for enterprise zone bonds.

SEC. 2. Section 7075.5 is added to the Government Code, to read:

7075.5. The limitations in Section 91503 on the allowable uses of proceeds of bonds issued pursuant to Title 10 (commencing with Section 91500) shall not apply to bonds issued on behalf of any enterprise zone or portion of any enterprise zone.

SEC. 3. Section 7088.5 is added to the Government Code, to read:

7088.5. The limitations in Section 91503 on the allowable uses of proceeds of bonds issued pursuant to Title 10 (commencing with Section 91500) shall not apply to bonds issued on behalf of any targeted economic development area or neighborhood economic development area or portion of any area.

SEC. 4. Section 7091 of the Government Code is amended to read:

7091. (a) Notwithstanding the bonding limitation specified in Section 91573, the California Industrial Development Financing Advisory Commission shall authorize an annual maximum amount of qualifying bonds of seventy-five million dollars ($75,000,000).

(b) Notwithstanding Section 91503, the bonding authorization contained in subdivision (a) shall be used for providing funds to qualified businesses within designated program areas or any business which is located within an enterprise zone which is designated under any other provision of state law. However, any portion of the annual maximum amount specified in subdivision (a) which in any year is not used for the purpose specified in this subdivision may be used in the next succeeding year for the purpose of any program

administered by the California Industrial Development Financing Advisory Commission.

(c) The annual maximum bonding authority specified in subdivision (a) is exclusive of, and in addition to, the maximum bonding authority specified in Section 91573.

CHAPTER 914

An act to amend Sections 25144.6 and 25205.14 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 25144.6 of the Health and Safety Code is amended to read:

25144.6. (a) As used in this section, "reusable soiled textile materials" means textile items, including, but not limited to, shop towels, uniforms, gloves, and linens and towels which may become soiled with hazardous waste during commercial or industrial use, and are made reusable by laundering or comparable methods of cleaning.

(b) Reusable soiled textile materials which meet all of the following requirements are exempt from Section 25205.5 and from Article 6 (commencing with Section 25160) and Article 6.5 (commencing with Section 25167.1):

(1) The materials or the management of the materials are not otherwise regulated by the Environmental Protection Agency pursuant to the federal act.

(2) The materials are not used to clean up or control a spill or release that is required to be reported to any state or federal agency.

(3) No hazardous waste has been added after the materials' original use.

(4) No free liquids, as defined by Section 22-66260.10 of Title 26 of the California Code of Regulations, are released during transportation or storage of the materials.

(5) The facility laundering or cleaning the materials maintains records of the date, type, and quantities by piecework or weight of the materials collected and laundered.

(6) The facility laundering or cleaning the materials prepares a contingency plan which specifies procedures for handling both onsite and offsite emergencies involving the materials, and employees are trained in the execution of the plan.

(c) Notwithstanding Sections 25201 and 25245, a facility laundering or using comparable methods of cleaning reusable soiled textile materials and performing the pretreatment necessary to

remove metals and organics from the wastewater that results from the wash process is not required to obtain a hazardous waste facilities permit or other grant of authorization, and is exempt from the requirements of Article 12 (commencing with Section 25245), if the facility meets all of the following requirements:

(1) Management procedures are in place to ensure that the reusable soiled textile materials are managed in accordance with all the requirements specified in subdivision (b).

(2) The waste wash water conveyances and containers are constructed of materials to ensure that they are impervious under the conditions of use, and are visually inspected at least twice a year to ensure that waste wash water is not leaking into the underlying soil. A facility which is in compliance with this paragraph is not subject to the requirements of Section 22-66264.193 of Title 26 of the California Code of Regulations.

(3) The sludge collected from the washing process is managed in accordance with this chapter.

(4) The facility has a training program in place that ensures that the facility personnel are able to safely and properly handle and clean the reusable soiled textile materials and to respond effectively to emergencies by familiarizing them with emergency procedures, equipment, and systems.

(5) The facility is in compliance with the requirements of paragraphs (2) to (6), inclusive, and paragraphs (8) and (10), of subdivision (d) of Section 25201.5.

(6) The facility submits a notification to the department in accordance with paragraph (7) of subdivision (d) of Section 25201.5 on or before April 1, 1994, submits the fee required pursuant to subdivision (c) of Section 25205.14 for the 1994 reporting period on that date, and pays the fee required by that section for subsequent reporting periods of operation when billed by the department or the State Board of Equalization.

(d) This section does not affect the application of Section 25143.2 to reusable soiled textile materials.

SEC. 2. Section 25205.14 of the Health and Safety Code is amended to read:

25205.14. (a) The owner or operator of a facility or transportable treatment unit operating pursuant to a permit-by-rule shall pay a fee to the board per facility or transportable treatment unit for each reporting period, or portion thereof. The fee for the 1993 reporting period shall be one thousand one hundred forty dollars ($1,140). Thereafter, the fee shall be adjusted annually by the board to reflect increases and decreases in the cost of living, as measured by the United States Department of Labor or a successor agency. The owner or operator of a facility or transportable treatment unit operating pursuant to a permit-by-rule shall also pay a fee in the amount of 50 percent of the fee specified in this subdivision for each notification required by Sections 22-67450.2 and 22-67450.3 of Title 26 of the California Code of Regulations, as those sections read on

January 1, 1993. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known owners or operators operating pursuant to a permit-by-rule. The department shall also notify the board of any owner or operator authorized to operate pursuant to a permit-by-rule within 60 days from the date of authorization.

(b) A generator operating under a grant of conditional authorization pursuant to Section 25200.3 shall pay a fee to the board per facility for each reporting period, or portion thereof. The fee for the 1993 reporting period shall be one thousand one hundred forty dollars ($1,140). Thereafter, the fee shall be adjusted annually by the board to reflect increases and decreases in the cost of living, as measured by the United States Department of Labor or a successor agency. A generator shall also pay a fee in the amount of 50 percent of the fee specified in this subdivision for each notification amendment required by subdivision (*l*) of Section 25200.3. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known generators operating under a grant of conditional authorization pursuant to Section 25200.3. The department shall also notify the board of any generator authorized to operate under a grant of conditional authorization within 60 days from the date of authorization.

(c) A generator performing treatment conditionally exempted pursuant to Section 25144.6 or subdivision (a) or (c) of Section 25201.5 shall pay one hundred dollars ($100) to the board per facility for the operating period, or portion thereof, and fifty dollars ($50) for every reporting period thereafter. The reporting period shall begin January 1 of each calendar year. On or before January 31 of each calendar year, the department shall notify the board of all known facilities performing treatment conditionally exempted pursuant to subdivision (a) or (c) of Section 25201.5. The department shall also notify the board of any generator who notifies the department that the generator is conducting a conditionally exempt treatment operation within 60 days of the receipt of that notification.

(d) The fees imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

(e) Notwithstanding subdivisions (a), (b), and (c), the fees for the 1993 reporting period for facilities operating fixed treatment units pursuant to a permit-by-rule, for generators operating under a grant of conditional authorization pursuant to Section 25200.3, and for generators performing treatment conditionally exempted pursuant to subdivision (a) or (c) of Section 25201.5 shall be remitted to the department at the time that the notifications required by Sections 25200.3, 25201.5, and 25205.13 are submitted to the department.

CHAPTER 915

An act to amend Section 40002 of, to repeal Sections 39058.3 and 39058.5 of, to repeal Chapter 11 (commencing with Section 41100) of Part 3 of Division 26 of, the Health and Safety Code, and to amend Section 1 of Chapter 1201 of the Statutes of 1991, relating to air pollution.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 39058.3 of the Health and Safety Code is repealed.

SEC. 2. Section 39058.5 of the Health and Safety Code is repealed.

SEC. 3. Section 40002 of the Health and Safety Code is amended to read:

40002. (a) There is continued in existence and shall be, in every county, a county district, unless the entire county is included within the bay district, the Mojave Desert district, the south coast district, the San Joaquin Valley Air Quality Management District, if that district is created, a regional district, or a unified district.

(b) If only a part of the county is included within the bay district, the south coast district, the Mojave Desert district, the San Joaquin Valley Air Quality Management District, if that district is created, a regional district, or a unified district, there is in that part of the county not included within any of those districts a county district, for which different air quality rules and regulations may be required.

SEC. 4. Chapter 11 (commencing with Section 41100) of Part 3 of Division 26 of the Health and Safety Code is repealed.

SEC. 5. Section 1 of Chapter 1201 of the Statutes of 1991, as amended by Chapter 765 of the Statutes of 1992, is amended to read:

Section 1. (a) The San Joaquin Valley Unified Air Pollution Control District formed by the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare pursuant to Chapter 3 (commencing with Section 40150) of Part 3 of Division 26 of the Health and Safety Code, and consisting of the Counties of Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare, and that portion of the County of Kern that is within the San Joaquin Valley Air Basin, is a single integrated agency with all staff under one centralized management structure that is able to implement programs on a basinwide basis, and has all of the following:

(1) An individual air pollution control officer who is responsible for the issuance of all permits by the unified district.

(2) A single budget for the unified district with resources allocated based on the program needs of the San Joaquin Valley Air Basin.

(3) A uniform fee structure.

(4) Three hearing boards established pursuant to Section 40800 of the Health and Safety Code. One hearing board shall serve the northern region, one shall serve the central region, and one shall serve the southern region, as defined by the unified district board. Identical policies governing the operation of each hearing board shall be established by the unified district board and shall be binding upon each hearing board.

(5) A citizen's advisory committee.

(b) Rules and regulations adopted by the San Joaquin Valley Unified Air Pollution Control District are binding on all counties within the unified district. The unified district shall enforce all permits issued by the unified district and all permits issued by the individual county districts prior to formation of the unified district. The unified district shall review, revise, adopt, and implement any air pollution control plans required within the San Joaquin Valley Air Basin by state and federal law.

(c) Notwithstanding any other provision of law, the San Joaquin Valley Unified Air Pollution Control District shall be governed by a district board composed of 11 members, appointed as follows:

(1) Eight members, one of whom shall be appointed by each of the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare. The board of supervisors of each of those counties shall, by majority vote, appoint one of its members to serve as a member of the district governing board.

(2) Three city members appointed by the cities within the territory of the unified district. There shall not be more than one city member selected from one county. One city member shall be selected from the northern region, one from the central region, and one from the southern region of the district. Of the three city members, one shall be from a city having a population of less than 20,000, one shall be from a city having a population of not less than 20,000 and not more than 50,000, and one shall be from a city having a population of more than 50,000.

(d) (1) The San Joaquin Valley Air Quality Management District is hereby created, operative pursuant to paragraph (5). The valley district shall consist of the Counties of Fresno, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare, and that portion of the County of Kern that is within the San Joaquin Valley Air Basin.

(2) The valley district shall assume all of the authority, responsibilities, obligations, functions, and duties of the San Joaquin Valley Unified District, if the unified district ceases to exist, and shall assume the former unified district's membership on the state board in accordance with subdivision (c) of Section 39510 of the Health and Safety Code.

(3) The valley district shall have all of the powers, duties, and functions of an air quality management district. The valley district shall meet all of the requirements specified in paragraphs (1) to (6), inclusive, of subdivision (a) and shall be governed by a district board appointed as specified in subdivision (c).

(4) The valley district shall enforce all of the rules and regulations adopted, and permits issued, by the former unified district. Those rules and regulations may be amended or repealed, and those permits may be modified or revoked, by the valley district.

(5) This subdivision shall only become operative if the San Joaquin Valley Unified Air Pollution Control District ceases to exist, and shall, in that event, become operative on the date that the unified district ceases to exist.

CHAPTER 916

An act to amend Sections 1611, 10201, 10206, and 10214.5 of the Unemployment Insurance Code, relating to job training, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 1611 of the Unemployment Insurance Code is amended to read:

1611. Money in the Employment Training Fund shall be expended only for the purposes of Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3, and for the costs of administering this article and Section 976.6, except:

(a) With the approval of the Legislature, the fund or contributions to it may be used to pay interest charged on federal loans to the Unemployment Fund.

(b) Commencing with allocations made to the Employment Training Panel in the 1992–93 fiscal year, any moneys allocated to the panel in a fiscal year that are not encumbered by the panel in that fiscal year, shall revert to the Unemployment Insurance Fund.

(c) Commencing with the 1994–95 fiscal year, and for each fiscal year thereafter, to the extent that interest is earned on the money in the Employment Training Fund, that interest shall be used to fund up to 50 percent of the costs of the State-Local Cooperative Labor Market Information Program established pursuant to Section 10533, but in an amount not to exceed three million one hundred thousand dollars ($3,100,000).

(d) It is the intent of the Legislature that the panel shall closely monitor program performance and expenditures for employment training programs administered by the panel, and that the panel shall expeditiously disencumber funds that are not needed for employment training program completion. Commencing with the 1992–93 fiscal year, those moneys that are disencumbered during the fiscal year that are not reencumbered during the same fiscal year shall revert to the Unemployment Insurance Fund.

SEC. 2. Section 10201 of the Unemployment Insurance Code is amended to read:

10201. As used in this chapter:

(a) "Employer" means any employer subject to Part 1 (commencing with Section 100) of Division 1, except any public entity, or any nonprofit organization which has elected an alternate method of financing its liability for unemployment insurance compensation benefits pursuant to Article 5 (commencing with Section 801), or Article 6 (commencing with Section 821) of Chapter 3.

Any public entity or nonprofit organization that has elected an alternate method of financing its liability for unemployment insurance compensation benefits pursuant to Article 5 (commencing with Section 801), or Article 6 (commencing with Section 821) of Chapter 3, shall be deemed to be an employer only for purposes of placement of new hire trainees who received training as an incidental part of a training project designed to meet the needs of one or more private sector employers.

(b) "Eligible participant" means any person who, prior to beginning training or employment pursuant to this chapter, is any of the following:

(1) Unemployed and has established an unemployment insurance claim in this state, or has exhausted eligibility for unemployment insurance benefits from this state within the previous 24 months.

(2) Employed for a minimum of 90 days, but is determined by the panel to be likely to be displaced and therefore claiming unemployment insurance benefits because of reductions in overall employment within a business, elimination of the person's current job, or a substantial change in the skills required to remain employed due to technological change or other factors, or if employed for less than 90 days, met the conditions of paragraph (1) at the time of hire, or had received a notice of layoff from the prior employer. In making a finding of eligibility under this paragraph, the panel shall require the employer or contractor to provide, at the option of the employer or the contractor, either of the following:

(A) Certification of the specific facts that threaten the continued employment of the trainee, and a plan for assuring with reasonable certainty that the training being proposed will contribute to the long-term job security of the trainee. The plan shall include, but not be limited to, a general description, with respect to the facility at which the trainee is employed, of other actions planned by the employer, such as technological changes, additional training, management adjustments, and organizational changes, for the purposes of enhancing the effectiveness of the proposed training. The plan shall also include a statement of how the employer plans to sustain the commitment to workplace training after the contract ends, and how the training will affect the productivity and employment security of the workforce. The panel may modify the specific requirements of this subparagraph as they apply to

employers or contractors proposing projects that involve training for a significant number of small employers in the same project.

(B) Evidence that the workers proposed to receive retraining have been given written notice that their employment will be terminated within two years of the date the application is presented to the panel.

(3) Employed for a minimum of 90 days, but who is determined by the panel to be in need of training in order to facilitate an employer's adaptation to a high performance workplace or diversification of the production of goods or services in order to meet the productivity goals and competitive needs of the employer's operation, or if employed for less than 90 days, met the conditions of paragraph (1) at the time of hire or had received a notice of layoff from the prior employer. In making a finding of eligibility under this paragraph, the panel shall require an employer or contractor to submit evidence of change, or plans to change, to a high performance or diversified workplace and a statement of how the employer plans to sustain the commitment to workplace training after the contract ends and how the training will affect the productivity and employment security of the workforce. For purposes of this subdivision, "high performance workplace" means a workplace that invests in the training of frontline workers, as defined in subdivision (a) of Section 10200, to equip these workers with problem solving and decisionmaking skills that result in increased productivity.

(4) Employed, but who is determined by the panel to be qualified to be trained or retrained in skills for which there is a demonstrable shortage and in a field where new employment opportunities will be created for other persons defined in paragraph (1) if this retraining takes place. In making a finding of eligibility under this paragraph, the panel shall require the employer or contractor to provide a job for at least one unemployed person for each person retrained.

(c) "Panel" means the Employment Training Panel created by Section 10202.

(d) "Fund" means the Employment Training Fund created by Section 1610.

(e) "Department" means the Employment Development Department.

(f) "Training agency" means any private training entity or local educational agency.

(g) "Job" means employment on a basis customarily considered full time for the occupation and industry. The employment shall have definite career potential and a substantial likelihood of providing long-term job security. Furthermore, the employment shall provide earnings, upon completion of the employment requirement specified in subdivision (f) of Section 10209, equal to 50 percent, in the case of new hire training, or 60 percent, in the case of retraining, of the state or regional average hourly wage. However, in no case shall the employment result in earnings of less than 45

percent of the state average hourly wage for new hire training and 55 percent of the state average hourly wage for retraining. The panel may consider the dollar value of health benefits that are voluntarily paid for by an employer when computing earnings to meet the minimum wage requirements.

(h) "Private industry council" means an entity established pursuant to Section 15030.

(i) "New hire training" means employment training, including job-related literacy training, for persons who, at the start of training, are unemployed.

(j) "Retraining" means employment related skill and literacy training for persons who are employed prior to commencement of training and will continue to be employed by the same employer for at least 90 days following completion of training.

(k) "Trainee" means an eligible participant.

(*l*) "State average hourly wage" means the average weekly wage paid by employers to employees covered by unemployment insurance, as reported to the Employment Development Department for the four calendar quarters ending June 30 of the preceding calendar year, divided by 40 hours.

SEC. 3. Section 10206 of the Unemployment Insurance Code is amended to read:

10206. (a) The panel may allocate money in the fund for any of the following purposes:

(1) Reimbursement of reasonable training costs and administrative costs incurred by contractors. In making a determination of costs to be reimbursed under this paragraph, the panel may allocate funds in accordance with any of the following methods:

(A) For purposes of providing simplified fixed-fee performance contracts, a flat rate per hour for categories of training that are substantially similar with respect to content, methodology, and duration, as determined by the panel, not to exceed the reasonable and normal costs for the training. The panel shall periodically adjust the standardized rates established pursuant to this paragraph to reflect changes in training costs.

(B) A complete review of the proposal and its costs, including a budget listing the planned costs of training, including personnel, fringe benefits, equipment, supplies, fees for consulting or administrative services, and other costs attributable to training; the services provided by subcontractors; the length and complexity of the training; the method of training; the wages and occupations following training; whether the trainees are new hires or retrainees; and the cost of similar training that the panel has funded previously. The cost of program administration shall not exceed 15 percent of the training costs under this paragraph, except that for new hire training the panel may fund administrative costs of up to 25 percent of the training cost.

(C) The panel may modify the specific requirements of this

paragraph as they apply to employers or contractors proposing projects that involve training for a significant number of small employers in the same project.

(2) Costs of program administration incurred under this chapter. These costs shall be reviewed annually by the Department of Finance and the Legislature and determined through the normal budgetary process.

The panel's administrative costs, exclusive of the cost of administering Section 976.6, shall not exceed 15 percent of the amount annually available for expenditure by the panel. Expenditures for marketing, research, and evaluations provided under contract to the panel under paragraph (1) that otherwise would have been provided directly by the panel shall not be included in this limitation.

(3) Service related to the purposes of this chapter provided by the Small Business Development Centers pursuant to an interagency agreement with the Trade and Commerce Agency.

(b) For all training contracts, the panel shall establish requirements for in-kind contributions by either the contractor or the employer that reflect a substantial commitment on the part of the contractor or the employer to the value of the training. In developing these requirements, the panel shall take into account the ability of the contractor or the employer, because of size or financial condition, to make any contribution, and the ability of the Employment Training Fund to meet the demand for training authorized by this chapter. Contributions shall be evaluated against plans required in subparagraph (A) of paragraph (2) of subdivision (b) of Section 10201 to sustain a commitment to workplace training after the contract ends. In developing policies regarding in-kind contributions, the panel shall hold public hearings.

(c) In order to encourage successful new hire training, the panel shall develop a new hire cost reimbursement system. The new hire cost reimbursement system shall recognize the additional risk attendant to new hire training if the contractor successfully meets at least 60 percent of the training and placement goals of a new hire contract. The reimbursement system authorized by this subdivision shall discourage excessive overenrollment at the beginning of the contract, and shall not provide reimbursements if the training and placement goals are achieved primarily through modification of the original contract. The new hire cost reimbursement system provided for in this subdivision shall remain in effect only until December 31, 1995.

SEC. 4. Section 10214.5 of the Unemployment Insurance Code is amended to read:

10214.5. (a) The panel may allocate up to 20 percent of the annually available training funds for the purpose of funding special employment training projects for the purposes of any of the following:

(1) Supporting retraining for frontline workers, as defined in

subdivision (a) of Section 10200, in occupations that pay 100 percent of the state or regional average hourly wage when a business is difficult to serve under the panel's standard project format; provided that the employment may not result in earnings of less than 95 percent of the state average hourly wage.

(2) Encouraging the development of new industries, including the electric and clean fuel vehicle industry and other advanced transportation technology industries, that contribute to high-skilled employment and economic vitality in California.

(3) Supporting efforts that address the training and employment of workers affected by defense industry cutbacks and military base closures.

(4) Stabilizing employment in fields where there is a demonstrated deficit of trained employees and clear career advancement opportunities.

Notwithstanding any other provision of this chapter, participants in these projects need not meet the same eligibility criteria as outlined in paragraph (1) of subdivision (a) of Section 10200 and subdivision (b) of Section 10201. In addition, the panel may allocate funds under this section for the development of training materials and training programs that contribute to the development of new industries in the state.

(b) The panel may allocate up to 15 percent of the funds specified in subdivision (a) for job-related vocational and literacy skills training and the employment of individuals with barriers to full-time, stable employment. These barriers may include, but shall not be limited to, language, basic skills, and occupational literacy barriers to employment. These individuals shall meet the eligibility criteria specified in subdivision (b) of Section 10201. Preference shall be given to contractors that can provide trainees with the comprehensive services necessary to successfully complete training, overcome barriers, secure gainful employment, and become self-sufficient. The panel may waive, if necessary, the eligibility criteria outlined in paragraph (1) of subdivision (a) of Section 10200, the minimum wage requirements pursuant to subdivision (g) of Section 10201, and the employment retention provisions specified in subdivision (f) of Section 10209 and instead require that the trainee has been retained in employment for a minimum of 90 days out of 120 consecutive days after the end of training with no more than three employers. In addition, the panel may allocate funds under this subdivision for reasonable child care and transportation costs for trainees.

(c) The panel shall adopt minimum standards for consideration of proposals to be funded pursuant to this section.

(d) The panel may not delegate its authority to approve contracts written pursuant to this section.

(e) It is the intent of the Legislature in providing the authority for these projects that the panel allocate these funds in a manner consistent with the objectives of this chapter as provided in Section

10200.

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

In order to ensure immediate funding of specified special employment training projects provided for in this act, it is necessary that the act take effect immediately.

CHAPTER 917

An act to add Article 2.98 (commencing with Section 14094) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. The Legislature finds and declares that the California Children's Services Program serves a special population of children and successfully utilizes managed care principles in the delivery of care to children. Any managed care plan or pilot project should utilize and build upon these models.

SEC. 2. Article 2.98 (commencing with Section 14094) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 2.98. California Children's Services Program and Medi-Cal Managed Care Contracts

14094. For purposes of this article "CCS" means California Children's Services.

14094.1. (a) The director shall investigate and to the extent feasible require any managed care contractor serving children with conditions eligible under the CCS program, to maintain and follow standards of care established by the program, including use of paneled providers and CCS approved special care centers and to follow treatment plans approved by the program, including specified services and providers of services. If there are insufficient paneled providers willing to enter into contracts with the managed care contractor, the program shall seek to establish new paneled providers willing to contract. If a paneled provider cannot be found, the managed care contractor shall seek program approval to use a specific nonpaneled provider with appropriate qualifications.

(b) The director shall investigate and to the extent feasible

require any managed care contractor serving children with conditions eligible under the CCS program, to report expenditures and savings separately for CCS covered services and CCS eligible children.

(c) (1) If the managed care contractor is paid according to a capitated or risk-based payment methodology, there shall be a separate actuarially sound rate for CCS eligible children.

(2) Notwithstanding paragraph (1), a managed care pilot project may, if approval is obtained from the state CCS program director, utilize an alternative rate structure for CCS eligible children.

14094.2. (a) This article is not intended, and shall not be interpreted, to permit any reduction in benefits or eligibility levels under the CCS program. Any medically necessary service not available under the managed care contracts authorized under this article shall remain the responsibility of the state and county.

(b) In order to ensure that CCS benefits are provided to enrollees with a CCS eligible condition according to CCS program standards, there shall be oversight by the state and local CCS program agencies for both services covered and not covered by the managed care contract.

14094.3. (a) Notwithstanding this article or Section 14093.05 or 14094.1, CCS covered services shall not be incorporated into any Medi-Cal managed care contract entered into after August 1, 1994, pursuant to Article 2.7 (commencing with Section 14087.3), Article 2.8 (commencing with Section 14087.5), Article 2.9 (commencing with Section 14088), Article 2.91 (commencing with Section 14089), Article 2.95 (commencing with Section 14092); or either Article 2 (commencing with Section 14200), or Article 7 (commencing with Section 14490) of Chapter 8, until three years after the effective date of the contract.

(b) Notwithstanding any other provision of this chapter, providers serving children under the CCS program who are enrolled with a Medi-Cal managed care contractor but who are not enrolled in a pilot project pursuant to subdivision (c) shall continue to submit billing for CCS covered services on a fee-for-service basis until CCS covered services are incorporated into the Medi-Cal managed care contracts described in subdivision (a).

(c) (1) The department may authorize a pilot project in Solano County in which reimbursement for conditions eligible under the CCS program may be reimbursed on a capitated basis pursuant to Section 14093.05, and provided all CCS program's guidelines, standards, and regulations are adhered to, and CCS program's case management is utilized.

(2) During the three-year time period described in subdivision (a), the department may approve, implement, and evaluate limited pilot projects under the CCS program to test alternative managed care models tailored to the special health care needs of children under the CCS program. The pilot projects may include, but need not be limited to, coverage of different geographic areas, focusing on

certain subpopulations, and the employment of different payment and incentive models. Pilot project proposals from CCS program-approved providers shall be given preference. All pilot projects shall utilize CCS program-approved standards and providers pursuant to Section 14094.1.

(d) (1) The department shall submit to the appropriate committees of the Legislature an evaluation of pilot projects established pursuant to subdivision (c) based on at least one full year of operation.

(2) The evaluation required by paragraph (1) shall address the impact of the pilot projects on outcomes as set forth in paragraph (4) and, in addition, shall do both of the following:

(A) Examine the barriers, if any, to incorporating CCS covered services into the Medi-Cal managed care contracts described in subdivision (a).

(B) Compare different pilot project models with the fee-for-service system. The evaluation shall identify, to the extent possible, those factors that make pilot projects most effective in meeting the special needs of children with CCS eligible conditions.

(3) CCS covered services shall not be incorporated into the Medi-Cal managed care contracts described in subdivision (a) before the evaluation process has been completed.

(4) The pilot projects shall be evaluated to determine if:

(A) All children enrolled with a Medi-Cal managed care contractor described in subdivision (a) identified as having a CCS eligible condition are referred in a timely fashion for appropriate health care.

(B) All children in the CCS program have access to coordinated care that includes primary care services in their own community.

(C) CCS program standards are adhered to.

(e) For purposes of this section, CCS covered services include all program benefits administered by the program specified in Section 251 of the Health and Safety Code regardless of the funding source.

(f) Nothing in this section shall be construed to exclude or restrict CCS eligible children from enrollment with a managed care contractor or from receiving from the managed care contractor with which they are enrolled primary and other health care unrelated to the treatment of the CCS eligible condition.

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

In order to timely provide for the continued and appropriate health care for children, it is necessary that this act take effect immediately.

CHAPTER 918

An act to add Section 1203.067 to the Penal Code, relating to probation.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 1203.067 is added to the Penal Code, to read:

1203.067. (a) Notwithstanding any other law, before probation may be granted to any person convicted of a felony specified in Section 261, 262, 264.1, 286, 288, 288a, or 289, who is eligible for probation, the court shall do all of the following:

(1) Order the defendant evaluated pursuant to Section 1203.03, or similar evaluation by the county probation department.

(2) Conduct a hearing at the time of sentencing to determine if probation of the defendant would pose a threat to the victim. The victim shall be notified of the hearing by the prosecuting attorney and given an opportunity to address the court.

(3) Order any psychiatrist or psychologist appointed pursuant to Section 288.1 to include a consideration of the threat to the victim and the defendant's potential for positive response to treatment in making his or her report to the court. Nothing in this section shall be construed to require the court to order an examination of the victim.

(b) If a defendant is granted probation pursuant to subdivision (a), the court shall order the defendant to be placed in an appropriate treatment program designed to deal with child molestation or sexual offenders, if an appropriate program is available in the county.

(c) Any defendant ordered to be placed in a treatment program pursuant to subdivision (b) shall be responsible for paying the expense of his or her participation in the treatment program as determined by the court. The court shall take into consideration the ability of the defendant to pay, and no defendant shall be denied probation because of his or her inability to pay.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 919

An act to amend Section 212.5 of the Penal Code, relating to crime.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 212.5 of the Penal Code is amended to read:

212.5. (a) Every robbery of any person who is performing his or her duties as an operator of any bus, taxicab, cable car, streetcar, trackless trolley, or other vehicle, including a vehicle operated on stationary rails or on a track or rail suspended in the air, and used for the transportation of persons for hire, every robbery of any passenger which is perpetrated on any of these vehicles, and every robbery which is perpetrated in an inhabited dwelling house, a vessel as defined in Section 21 of the Harbors and Navigation Code which is inhabited and designed for habitation, an inhabited floating home as defined in subdivision (d) of Section 18075.55 of the Health and Safety Code, a trailer coach as defined in the Vehicle Code which is inhabited, or the inhabited portion of any other building is robbery of the first degree.

(b) Every robbery of any person while using an automated teller machine or immediately after the person has used an automated teller machine and is in the vicinity of the automated teller machine is robbery of the first degree.

(c) All kinds of robbery other than those listed in subdivisions (a) and (b) are of the second degree.

CHAPTER 920

An act to repeal and add the Elections Code, relating to elections.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

NOTE: The Elections Code consists of this chapter as originally enacted, and also contains all the amendments made thereto by chapters 503, 777, 818, 1189, and 1207.

Said amendatory chapters become effective January 1, 1995.

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

SECTION 1. The Elections Code is repealed.

SEC. 2. The Elections Code is added, to read:

CHAPTER 1. GENERAL PROVISIONS

1. This act shall be known as the Elections Code.

2. The provisions of this code, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations, and not

as new enactments.

3. If any provision of this code or the application thereof to any person or circumstance is held invalid, the remainder of the code and the application of that provision to other persons or circumstances shall not be affected thereby.

4. Unless the provision or the context otherwise requires, these general provisions, rules of construction, and definitions shall govern the construction of this code.

5. Division, part, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of this code.

6. Whenever a power is granted to, or a duty is imposed upon, a public officer, the power may be exercised or the duty may be performed by a deputy of the officer or by a person authorized, pursuant to law, by the officer, unless this code expressly provides otherwise.

7. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise.

8. As used in this code, the present tense includes the past and future tenses, and the future the present; the masculine gender includes the feminine; and the singular includes the plural, and the plural, the singular.

9. (a) Counting of words, for purposes of this code, shall be as follows:

(1) Punctuation is not counted.

(2) Each word shall be counted as one word except as specified in this section.

(3) All geographical names shall be considered as one word; for example, "City and County of San Francisco" shall be counted as one word.

(4) Each abbreviation for a word, phrase, or expression shall be counted as one word.

(5) Hyphenated words that appear in any generally available dictionary shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word.

(6) Dates consisting of a combination of words and digits shall be counted as two words. Dates consisting only of a combination of digits shall be counted as one word.

(7) Any number consisting of a digit or digits shall be considered as one word. Any number which is spelled, such as "one," shall be considered as a separate word or words. "One" shall be counted as one word whereas "one hundred" shall be counted as two words. "100" shall be counted as one word.

(b) This section shall not apply to counting words for ballot designations under Section 13107.

10. The Secretary of State is the chief elections officer of the state, and has the powers and duties specified in Section 12172.5 of the

Government Code.

11. On written call of the Secretary of State, the county elections officials, city elections officials, and registrars of voters of this state may meet with the approval of their legislative bodies, at the time and place within this state designated in the call, to discuss matters affecting the administration of the election laws and to promote uniformity of procedure in those matters. Meetings shall not exceed three in any calendar year. Any deputy of a county elections official, city elections official, or registrar of voters, designated for the purpose by his or her principal, may attend these meetings, alone or with his or her principal. The actual and necessary expenses of the county elections official, city elections official, or registrar of voters, and of a deputy, incurred in traveling to and from meetings and in attending the same, for each officer for any one meeting, shall be a charge of the county or city of the elections official or registrar, and payable as other county or city charges.

12. Whenever any candidate files a declaration of candidacy, nomination paper, or any other paper evidencing an intention to be a candidate for any public office at any election in this state with either the Secretary of State or a county elections official, the candidate shall by the filing irrevocably appoint the Secretary of State or the county elections official with whom the filing is made, and their successors in office, the candidate's attorneys upon whom all process in any action or proceeding against him or her concerning his or her candidacy or the election laws may be served with the same effect as if the candidate had been lawfully served with process. The appointment shall continue until the day of the election.

If in any action or proceeding arising out of or in connection with any matters concerning his or her candidacy or the election laws it is shown by affidavit to the satisfaction of a court or judge that personal service of process against the candidate cannot be made with the exercise of due diligence, the court or judge may make an order that the service be made upon the candidate by delivering by hand to the Secretary of State or the county elections official appointed as the candidate's attorney for service of process, or to any person employed in his or her office in the capacity of assistant or deputy, one copy of the process for the defendant to be served, together with a copy of the order authorizing the service. Service in this manner constitutes personal service upon the candidate. The Secretary of State and the county elections officials of all counties shall keep a record of all process served upon them under this section, and shall record therein the time of service and their action with reference thereto.

Upon the receipt of service of process the Secretary of State or the county elections official shall immediately give notice of the service of the process to the candidate by forwarding the copy of the process to the candidate at the address shown on his or her declaration, nomination paper, affidavit, or other evidence of intention to be a candidate filed with that officer, by special delivery registered mail

with request for return receipt.

13. No person shall be considered a legally qualified candidate for any office or party nomination for a partisan office under the laws of this state unless that person has filed a declaration of candidacy or statement of write-in candidacy with the proper official for the particular election or primary, or is entitled to have his or her name placed on a general election ballot by reason of having been nominated at a primary election, or having been selected to fill a vacancy on the general election ballot as provided in Section 8806, or having been selected as an independent candidate pursuant to Section 8504.

This section shall not be construed to prevent a voter from writing in the name of any person for an office at a primary or general election.

It is the intent of the legislature, in enacting this section, to enable the Federal Communications Commission to determine who is a "legally qualified candidate" in this state for the purposes of administering Section 315 of the Communications Act of 1934.

14. In case of a disaster in which a portion or all of the voting records of any county are destroyed, the Governor may appoint an election commission to outline and recommend procedures to be followed in the conduct of regular or special elections. The commission shall consist of the Governor, the Secretary of State, the Attorney General, and the county elections official of each county in which destruction occurs.

15. Notwithstanding any other provision of law, if the last day for the performance of any act provided for or required by this code shall be a holiday, as defined in Chapter 7 (commencing with Section 6700) of Division 7 of Title 1 of the Government Code, the act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed.

For purposes of this section, the Friday in November immediately after Thanksgiving Day shall be considered a holiday.

16. A copy of Section 84305 of the Government Code shall be provided by the elections official to each candidate or his or her agent at the time of filing the declaration of candidacy and to the proponents of a local initiative or referendum at the time of filing the petitions.

CHAPTER 2. PETITIONS AND PETITION SIGNERS

100. Notwithstanding any other provision of law, whenever any initiative, referendum, recall, nominating petition or paper, or any other petition or paper, is required to be signed by voters of any county, city, school district, or special district subject to petitioning, only a person who is an eligible registered voter at the time of signing the petition or paper is entitled to sign it. Each signer shall at the time of signing the petition or paper personally affix his or her signature, printed name, and place of residence, giving street and

number, and if no street or number exists, then a designation of the place of residence which will enable the location to be readily ascertained. A space at least one inch wide shall be left blank after each name for the use of the elections official in verifying the petition or paper. The part of a petition for the voters' signatures, printed names, and residence addresses and for the blank spaces for verification purposes shall be numbered consecutively commencing with the number one and continuing through the number of signature spaces allotted to each section. The petition format shall be substantially in the following form:

			Official Use Only
1.	(Print Name) _____ (Signature)	(Residence Address ONLY) _____ (City)	
2.	(Print Name) _____ (Signature)	(Residence Address ONLY) _____ (City)	

101. Notwithstanding any other provision of law, any state or local initiative petition required to be signed by voters shall contain in 12-point type, prior to that portion of the petition for voters' signatures, printed names, and residence addresses, the following language:

"NOTICE TO THE PUBLIC

THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK."

102. Any person who is a voter may circulate an initiative, referendum or recall petition in accordance with this code.

103. Any voter who has signed an initiative, referendum or recall petition pursuant to the Constitution or laws of this state shall have his or her signature withdrawn from the petition upon filing a

written request therefor with the appropriate county elections official or city elections official prior to the day the petition is filed.

104. (a) Wherever any petition or paper is submitted to the elections official, each section of the petition or paper shall have attached to it a declaration signed by the circulator of the petition or paper, setting forth, in the circulator's own hand, the following:

(1) The printed name of the circulator.

(2) The residence address of the circulator, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(3) The dates between which all the signatures to the petition or paper were obtained.

(b) Each declaration submitted pursuant to this section shall also set forth the following:

(1) That the circulator circulated that section and witnessed the appended signatures being written.

(2) That according to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.

(c) The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury under the laws of the State of California, with the signature of his or her name at length, including given name, middle name or initial, or initial and middle name. The circulator shall state the date and the place of execution on the declaration immediately preceding his or her signature.

105. For purposes of verifying signatures on any initiative, referendum, recall, nomination, or other election petition or paper, the elections official shall determine that the residence address on the petition or paper is the same as the residence address on the affidavit of registration. If the addresses are different, or if the petition or paper does not specify the residence address, or, in the case of an initiative or referendum petition, if the information specified in Section 9020 is not contained in the petition, the affected signature shall not be counted as valid.

Any signature invalidated pursuant to this section shall not affect the validity of other valid signatures on the particular petition or paper.

106. Notwithstanding any other provision of law:

(a) Any registered voter who is a candidate for any office may obtain signatures to and sign his or her own nomination papers. The candidate's signature shall be given the same effect as that of any other qualified signer.

(b) Any person engaged in obtaining signatures to the nomination papers of a candidate for any office or to any recall, initiative or referendum petition, may, if otherwise qualified to sign the papers or petition, sign the papers or petition. The signature of the person shall be given the same effect as that of any other qualified signer.

CHAPTER 3. NOMINATIONS

200. Notwithstanding any provision of law to the contrary, there shall be set forth in full in the declaration of candidacy required for any primary or final election the oath or affirmation set forth in Section 3 of Article XX of the Constitution, and this requirement shall satisfy Section 3 of Article XX of the Constitution with respect to any office or public trust.

201. Unless otherwise specifically provided, no person is eligible to be elected or appointed to an elective office unless that person is a registered voter and otherwise qualified to vote for that office at the time that nomination papers are issued to the person or at the time of the person's appointment.

CHAPTER 4. DEFINITIONS

300. (a) "Absent voter" means any voter casting a ballot in any way other than at the polling place.

(b) "Special absentee voter" means an elector who is any of the following:

(1) A member of the armed forces of the United States or any auxiliary branch thereof.

(2) A citizen of the United States temporarily living outside of the territorial limits of the United States or the District of Columbia.

(3) Serving on a merchant vessel documented under the laws of the United States.

(4) A spouse or dependent of a member of the armed forces or any auxiliary branch thereof.

301. "Ballot" means a single card or a number of cards upon which are printed the names of candidates and the ballot titles of measures to be voted on by a punching or slotting device at the election and includes a card upon which is printed the instructions to voters.

In addition to, or in lieu thereof, "ballot" may mean a reference page or pages upon which are printed the instructions to voters, office titles, names of candidates, and ballot titles of measures to be voted on by punching or slotting a separate card or a number of cards whereby the vote for each candidate and on each measure is registered in direct relation to the reference page or pages.

302. "Ballot card" means a card or a number of cards upon which are printed, or identified by reference to the ballot, the names of candidates for nomination or election to one or more offices or the ballot titles of one or more measures. The ballot card shall also contain proper blank spaces to allow the voter to write in names not printed on the ballot unless a separate write-in ballot is used. The separate write-in ballot may be a paper ballot, a card, or the envelope used to enclose a ballot card. Determination of the format of a separate write-in ballot shall be within the discretion of the elections board. The separate write-in ballot shall provide a blank space

followed by the word "office" and a second blank space followed by the word "name" for purposes of facilitating write-in votes for offices for which write-in votes may be cast, or may provide a space for writing in the name followed by a space for punching or slotting in order that the vote may be tabulated. All separate write-in ballots may, in the discretion of the elections board, have attached thereto two stubs that comply with Section 13261 regarding the stubs attached to a ballot card, except that the information required under subdivisions (c) through (g) of Section 13261 and instructions to voters on how to vote for persons whose names do not appear on the ballot may be printed on the write-in ballot and not upon a stub. Any serial numbers appearing on the write-in ballot stubs need not be identical to the serial numbers appearing on the stubs attached to the ballot card or cards handed to the voter. Sections 13002 through 13007 shall not apply to the preparation and composition of separate write-in ballots authorized by this section. Sections 14403 and 14406 shall not apply to separate write-in ballots used in an election in which a punchcard voting system is used.

303. "Ballot label," means that portion of cardboard, paper or other material placed on the front of a voting machine, containing the names of the candidates or a statement of a measure.

304. "Campaign advertising or communication" means a communication authorized by a candidate or a candidate's controlled committee, as defined in Section 82016 of the Government Code, or by a committee making independent expenditures, as defined in Section 82031 of the Government Code, or by a committee formed primarily to support or oppose a ballot measure, as defined in Section 82047.5 of the Government Code, for the purpose of advocating the election or defeat of a qualified candidate or ballot measure through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general, public, political advertising.

305. (a) "Candidate," for purposes of Section 2184, includes any person who declares in writing, under penalty of perjury that he or she is a candidate, naming the office.

(b) "Candidate," as used in Article 1 (commencing with Section 20200) of Chapter 3 of Division 20, means an individual listed on the ballot, or who has qualified to have write-in votes on his or her behalf counted by election officials, for nomination or for election to any elective state or local office, or who receives a contribution or makes an expenditure or gives his or her consent for any other person to receive a contribution or makes an expenditure with a view to bringing about his or her nomination or election to any elective state or local office, whether or not the specific elective office for which he or she will seek nomination or election is known at the time the contribution is received or the expenditure is made. The term "candidate" includes any officeholder who is subject to a recall election.

(c) "Candidate for public office," as used in Chapter 5

(commencing with Section 20400) of Division 20, means an individual who has qualified to have his or her name listed on the ballot of any election, or who has qualified to have written votes on his or her behalf counted by election officials, for nomination for, or election to, any state, regional, county, municipal, or district office which is filled at an election.

306. "City measure" includes any proposed city charter, any proposed amendment to a city charter, any proposition for the issuance of bonds by the city, any advisory question, or any other question or proposition submitted to the voters of a city.

307. "Clerk" means county clerk, registrar of voters, city clerk, or other officer or board charged with the duty of conducting any election.

308. "District elections official," for the purposes of initiative and referendum under Article 1 (commencing with Section 9300) of Chapter 4 of Division 9, includes the county clerk or other officer or board charged with performing the duties required of the clerk of the district by that chapter.

309. "Committee," as used in Article 1 (commencing with Section 20200) of Chapter 3 of Division 20, means any person or combination of persons who, directly or indirectly, receive contributions or make expenditures or contributions for the purpose of influencing or attempting to influence the action of voters for or against the nomination or election of one or more candidates, or the passage, or defeat of any measure, and who is required to file campaign reports or statements under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code.

310. "County" and "city" both include "city and county."

311. "County clerk" means "registrar of voters," in those counties in which the latter office has been established. In those counties in which the office of "registrar of voters" has not been established the "county clerk" may also be known as "ex officio registrar of voters."

312. "County measure" includes any proposed county charter, any proposed amendment to a county charter, any proposition for the issuance of funding or refunding bonds of the county, any other question or proposition submitted to the voters of a county at any election held throughout an entire single county, any advisory question, or any bond proposal or any advisory question submitted to the voters of any public district although the boundaries of the district may be coterminous with those of the county.

313. "County office" means the office filled by any county officer.

314. "County officer" means any elected officer enumerated in Division 2 (commencing with Section 24000) of Title 3 of the Government Code.

315. "Demonstrator" means a model or facsimile of the voting device or the portion of the face of the voting machine that shows the voter how to operate the machine.

316. "Direct primary" is the primary election held on the first Tuesday after the first Monday in June in each even-numbered year,

and on the fourth Tuesday in March in any year that is evenly divisible by the number four, to nominate candidates to be voted for at the ensuing general election or to elect members of a party central committee.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

316. "Direct primary" is the primary election held on the first Tuesday after the first Monday in June in each even-numbered year, to nominate candidates to be voted for at the ensuing general election or to elect members of a party central committee.

This section shall become operative on January 1, 1998.

317. "District," for purposes of initiative and referendum under Chapter 4 (commencing with Section 9300) of Division 9, includes any regional agency that has the power to tax, to regulate land use, or to condemn and purchase land.

318. "Election" means any election including a primary that is provided for under this code.

319. "Election board" means the board of supervisors of each county, the city council or other governing body of a city, or any board or officer to whom similar powers and duties are given by any charter.

320. "Elections official" means any of the following:

(a) A clerk or any person who is charged with the duty of conducting an election.

(b) A county clerk, city clerk, registrar of voters, elections supervisor, or governing board having jurisdiction over elections within any county, city, or district within the state.

321. "Elector" means any person who is a United States citizen 18 years of age or older and a resident of an election precinct at least 29 days prior to an election.

322. "Electoral jurisdiction," as used in Division 11 (commencing with Section 11000), means the area within which the voters reside who are qualified to vote for the officer sought to be recalled.

323. "Federal election" means any presidential election, general election, primary election, or special election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, or Member of the United States House of Representatives.

324. (a) "General election" means either of the following:

(1) The election held throughout the state on the first Tuesday after the first Monday of November in each even-numbered year.

(2) Any statewide election held on a regular election date as specified in Section 1000.

(b) At each general election there shall be elected to the Congress of the United States:

(1) One Representative for each congressional district.

(2) One Senator, when the general election immediately

precedes the commencement of a full term.

325. "Judicial district" includes municipal court district and justice court district.

326. "Judicial office" means the office filled by any judicial officer.

327. "Judicial officer" means any Justice of the Supreme Court, justice of a court of appeal, judge of the superior court, judge of a municipal court, or judge of a justice court.

328. "Local election" is a municipal, county, or district election.

329. "Measure" means any constitutional amendment or other proposition submitted to a popular vote at any election.

330. "Municipal election" means elections in general law cities and where applicable in chartered cities.

331. "New citizen" means any person who meets all requirements of an elector of, and has established residency in, the State of California, except that he or she will become a United States citizen after the 29th day prior to an election but on or before the seventh day prior to that election.

332. "New resident" means a person who meets all requirements of an elector of the State of California except that his or her residency was established subsequent to the 29th day prior to the election.

The new resident is eligible to vote for President and Vice President and for no other office.

333. "Nomination documents" means declaration of candidacy and nomination papers.

334. "Nonpartisan office" means an office for which no party may nominate a candidate. Judicial, school, county, and municipal offices are nonpartisan offices.

335. "Oath" includes affirmation.

336. The "official summary date" is the date a summary of a proposed initiative measure is delivered or mailed by the Attorney General to the proponents for a proposed initiative measure. The Attorney General shall immediately notify the Secretary of State of that date and send the Secretary of State a copy of the summary. The Secretary of State immediately shall notify the proponents and county elections official of each county of the official summary date and mail a copy of the summary to each county elections official. This notification shall also include a complete schedule showing the maximum filing deadline, and the certification deadline by the counties to the Secretary of State.

No petitions for a proposed initiative measure shall be circulated for signatures prior to the official summary date. Petitions with signatures on a proposed initiative measure shall be filed with the county elections official not later than 150 days from the official summary date, and no county elections official shall accept petitions on the proposed initiative measure after that period.

337. "Partisan office" means an office for which a party may nominate a candidate.

338. "Party" means a political party or organization that has

qualified for participation in any primary election.

339. (a) "Precinct board" is the board appointed by the elections official to serve at a single precinct or a consolidated precinct.

(b) "Precinct board," when used in relation to proceedings taking place after the polls have closed, likewise includes any substitutive canvassing and counting board that may have been appointed to take the place of the board theretofore serving.

340. "Presidential primary" is the primary election that is held on the fourth Tuesday in March in any year which is evenly divisible by the number four, and at which delegations to national party conventions are to be chosen.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

340. "Presidential primary" is the primary election that is consolidated with the direct primary held in any year which is evenly divisible by the number four, and at which delegations to national party conventions are to be chosen.

This section shall become operative on January 1, 1998.

341. "Primary election" includes all primary nominating elections provided for by this code.

342. "Proponent or proponents of an initiative or referendum measure" means, for statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he or she prepare a title and summary of the chief purpose and points of the proposed measure; or for other initiative and referendum measures, the person or persons who publish a notice or intention to circulate petitions, or, where publication is not required, who file petitions with the elections official or legislative body.

343. "Proponent or proponents of a recall petition" means the person or persons who have charge or control of the circulation of, or obtaining signatures, to such petitions.

344. "Punchcard" means a tabulating card on which the voter may record his or her vote by punching, marking, or slotting.

345. "Punching" includes marking a ballot card to record a vote.

346. "Rebuttable presumption" shall be deemed a presumption which affects the burden of producing evidence.

347. "Register" means the affidavits of registration, prepared and bound by the county elections official.

348. "Regular election" is an election, the specific time for the holding of which is prescribed by law.

349. (a) "Residence" for voting purposes means a person's domicile.

(b) The domicile of a person is that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one domicile.

(c) The residence of a person is that place in which the person's habitation is fixed for some period of time, but wherein he or she does not have the intention of remaining. At a given time, a person may have more than one residence.

350. "School measure" means any proposition, including but not limited to, a proposal for the issuance of bonds by a school district or community college district, an increase in the maximum tax rate of a school district or community college district, or the acceptance, expenditure, and repayment of state funds by a school district or community college district to enable the district to construct buildings and other facilities, submitted to the voters of the district at any election held in the district.

351. "School office" means the office filled by any school officer.

352. "School officer" means the Superintendent of Public Instruction and the superintendent of schools of a county.

353. "Section" means a section of this code unless some other statute is specifically mentioned.

354. "Shall" is mandatory and "may" is permissive.

355. "Software" includes all programs, voting devices, cards, ballot cards or papers, operating manuals or instructions, test procedures, printouts, and other nonmechanical or nonelectrical items necessary to the operation of a voting system.

356. "Special election" is an election, the specific time for the holding of which is not prescribed by law.

357. "Statewide election" is an election held throughout the state.

358. "Vote tabulating device" means any piece of equipment, other than a voting machine, that compiles a total of votes cast by means of ballot card sorting, ballot card reading, paper ballot scanning, electronic data processing, or a combination of that type of equipment.

359. "Voter" means any elector who is registered under this code.

360. "Voting device" means any device used in conjunction with a ballot card or cards to indicate the choice of the voter by marking, punching, or slotting the ballot card.

361. "Voting machine" means any device upon which a voter may register his or her vote, and which, by means of counters, embossing, or printouts, furnishes a total of the number of votes cast for each candidate or measure.

362. "Voting system" means any mechanical, electromechanical, or electronic system and its software, or any combination of these used to cast or tabulate votes, or both.

DIVISION 1. ESTABLISHED ELECTION DATES

CHAPTER 1. ELECTION DATES

1000. The regular election dates in each year are as follows:

(a) The second Tuesday of April of each even-numbered year.

(b) The first Tuesday after the first Monday in March of each odd-numbered year.

(c) The fourth Tuesday in March in any year which is evenly divisible by the number four.

(d) The first Tuesday after the first Monday in June of each year.

(e) The first Tuesday after the first Monday in November of each year.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

1000. Three regular election dates shall be established in each year as follows:

(1) The second Tuesday of April of each even-numbered year.

(2) The first Tuesday after the first Monday in March of each odd-numbered year.

(3) The first Tuesday after the first Monday in June of each year.

(4) The first Tuesday after the first Monday in November of each year.

This section shall become operative on January 1, 1998.

1001. Elections held in June and November of each even-numbered year, and in March of any year evenly divisible by the number four, shall be statewide elections and these dates shall be considered statewide election dates.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

1001. Elections held in June and November of each even-numbered year shall be statewide elections and these dates shall be considered statewide election dates.

This section shall become operative on January 1, 1998.

1002. Except as provided in Section 1003, notwithstanding any other provisions of law, all state, county, municipal, district, and school district elections shall be held on the established election date nearest to the date on which they would be held in the absence of this chapter. If the election is held on a statewide election date it shall be consolidated with the statewide election according to Part 3 (commencing with Section 10400) of Division 10 except that, in counties of the first class, the board of supervisors may deny any request for consolidation if it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled. The procedural requirements prescribed for that type of election shall be construed as if this section were specifically set forth in the provisions relating to that election.

1003. This chapter shall not apply to the following:

(1) Any special election called by the Governor.

(2) Elections held in chartered cities or chartered counties in which the charter provisions are inconsistent with this chapter.

(3) School governing board elections consolidated pursuant to

Section 5006 of the Education Code or initiated by petition pursuant to Section 5091 of the Education Code.

(4) Elections of any kind required or permitted to be held by a school district located in a chartered city or county when the election is consolidated with a regular city or county election held in a jurisdiction that includes 95 percent or more of the school district's population.

(5) County, municipal, district, and school district initiative, referendum, or recall elections.

(6) Any election conducted solely by mailed ballot pursuant to Division 4 (commencing with Section 4000).

CHAPTER 2. ELECTION DAY

1100. Except as provided in Sections 1500 and 1501, no election shall be held on any day other than a Tuesday, nor shall any election be held on the day before, the day of, or the day after a state holiday.

CHAPTER 3. STATEWIDE ELECTIONS

1200. The statewide general election shall be held on the first Tuesday after the first Monday of November in each even-numbered year.

1201. (a) The statewide direct primary shall be held on the first Tuesday after the first Monday in June in each even-numbered year.

(b) Notwithstanding subdivision (a), in any year that is evenly divisible by the number four, the statewide direct primary shall be held on the fourth Tuesday in March and shall be consolidated with the presidential primary held in that year.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

1201. The statewide direct primary shall be held on the first Tuesday after the first Monday in June in each even-numbered year.

This section shall become operative on January 1, 1998.

1202. The presidential primary shall be held on the fourth Tuesday in March any year evenly divisible by the number four.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

1202. The presidential primary shall be consolidated with the statewide direct primary held in any year evenly divisible by the number four.

This section shall become operative on January 1, 1998.

CHAPTER 4. LOCAL ELECTIONS

1300. Except as otherwise provided in the Government Code, an election to select county officers shall be held with the statewide

primary at which candidates for Governor are nominated. In the event that county officers are not elected pursuant to Sections 8140 and 8141, this election shall be deemed a primary election and a county general election shall be held with the statewide general election to select county officers.

1301. (a) Except as provided in Sections 35443, 36503.5, and 36504 of the Government Code, a general municipal election shall be held on the second Tuesday in April of even-numbered years, or on the first Tuesday after the first Monday in March of odd-numbered years.

(b) A city council may enact an ordinance to move the date of its general municipal election from the second Tuesday in April of even-numbered years to the first Tuesday after the first Monday in March of odd-numbered years.

(c) As the result of the adoption of an ordinance pursuant to this section, no term of office shall be increased or decreased by more than 12 months. As used in this subdivision, "12 months" means the period between the day upon which the term of office otherwise would have commenced and the first Tuesday after the first Monday in March of the odd-numbered year in which the election is held, inclusive.

(d) If an election is held pursuant to subdivision (a) and the election is consolidated with another election, Part 3 (commencing with Section 10400) of Division 10, except Section 10403, shall govern the consolidation, and, if the county elections official is requested to conduct the municipal election, Section 10002 shall be applicable to that election.

(e) Within 30 days after the ordinance becomes operative pursuant to subdivision (a), the city elections official shall cause a notice to be mailed to all registered voters informing the voters of the change in the election date. The notice shall also inform the voters that as a result in the change in election date, elected city officeholders' terms in office will be changed.

(f) If a city adopts an ordinance pursuant to subdivision (a), the municipal election following the adoption of the ordinance and each municipal election thereafter shall be conducted on the date specified by the city council, in accordance with subdivision (a), unless the ordinance in question is later repealed by the city council.

(g) If the date of a general municipal election is changed pursuant to this section, at least one election shall be held before the ordinance may be subsequently repealed or amended.

1302. Except as otherwise provided, the regular election to select governing board members in any school district or community college district shall be held on the first Tuesday after the first Monday in November of each odd-numbered year.

1303. A general district election to elect members of the governing board shall be held in each special district subject to Division 10 (commencing with Section 10000) on the first Tuesday following the first Monday in November of each odd-numbered year.

1304. Unless the principal act of a district provides that an election shall be held on one of the other dates specified in Chapter 1 (commencing with Section 1000) of Division 1, a general district election shall be held in each district on the first Tuesday after the first Monday in November in each odd-numbered year to choose a successor for each elective officer the term of whose office will expire on the following first Friday in December.

CHAPTER 5. SPECIAL ELECTIONS

1400. Each special election shall be held on one of the established election dates set by this division or on the date of any statewide special election except as provided in Section 1003.

CHAPTER 6. MAIL BALLOT ELECTIONS

1500. If any election to choose members of the governing board of a special district is to be totally conducted by mailed ballot, it shall be held on the first Tuesday following the first Monday in September of each odd-numbered year, except as provided in Section 1501.

1501. The general district election, if conducted by all-mailed ballot, shall be held on the first Tuesday following the first Monday in September of odd-numbered years. However, if permitted by the county elections official or county elections officials of the county or counties affected by the use of all-mailed ballots, the general district election may be held on the first Tuesday after the first Monday in November in each odd-numbered year. All other district elections conducted by mailed ballot may be held in accordance with the dates set forth in the district enabling act or may be consolidated with the general district election.

1502. A mailed-ballot election may not be consolidated with any other election unless the other election is also being conducted by all-mailed ballot and no mailed-ballot election may be held on one of the regular election days set forth in Chapter 1 (commencing with Section 1000) of Division 1, except as provided in Section 1501.

DIVISION 2. VOTERS

CHAPTER 1. VOTER QUALIFICATIONS

Article 1. General Provisions

2000. (a) Every person who qualifies under Section 2 of Article II of the California Constitution and who complies with this code governing the registration of electors may vote at any election held within the territory within which he or she resides and the election is held.

(b) Any person who will be at least 18 years of age at the time of the next election is eligible to register and vote at that election.

Article 2. Determination of Residence and Domicile

2020. The term of domicile is computed by including the day on which the person's domicile commenced and by excluding the day of the election.

2021. (a) A person who leaves his or her home to go into another state or precinct in this state for temporary purposes merely, with the intention of returning, does not lose his or her domicile.

(b) A person does not gain a domicile in any precinct into which he or she comes for temporary purposes merely, without the intention of making that precinct his or her home.

2022. If a person moves to another state with the intention of making it his or her domicile, the voter loses his or her domicile in this state.

2023. If a person moves to another state as a place of permanent residence, with the intention of remaining there for an indefinite time, he or she loses his or her domicile in this state, notwithstanding that he or she intends to return at some future time.

2024. The mere intention to acquire a new domicile, without the fact of removal avails nothing, neither does the fact of removal without the intention.

2025. A person does not gain or lose a domicile solely by reason of his or her presence or absence from a place while employed in the service of the United States or of this state, nor while engaged in navigation, nor while a student of any institution of learning, nor while kept in an almshouse, asylum or prison. This section shall not be construed to prevent a student at an institution of learning from qualifying as an elector in the locality where he or she domiciles while attending that institution, when in fact the student has abandoned his or her former domicile.

2026. The domicile of a Member of the Legislature or a Representative in the Congress of the United States shall be conclusively presumed to be at the residence address indicated on that person's currently filed affidavit of registration.

2027. The place where a person's family is domiciled is his or her domicile unless it is a place for temporary establishment for his or her family or for transient objects.

Residence in a trailer or vehicle or at any public camp or camping ground may constitute a domicile for voting purposes if the registrant complies with the other requirements of this article.

2028. If a person has a family fixed in one place, and he or she does business in another, the former is his or her place of domicile, but any person having a family, who has taken up an abode with the intention of remaining and whose family does not so reside with him or her, is a domiciliary where he or she has so taken up the abode.

2029. The domicile of one spouse shall not be presumed to be that of the other, but shall be determined independently in accordance with this article.

2030. A domiciliary of this state who marries a person employed

temporarily in this state in the service of the United States government, may elect to retain his or her domicile for the purpose of qualifying as an elector only, except that his or her domicile in this state shall terminate if the domiciliary qualifies as an elector in any other state or any territory.

2031. If a person has more than one residence and that person maintains a homeowner's property tax exemption on the dwelling of one of the residences pursuant to Section 218 of the Revenue and Taxation Code, there shall be a rebuttable presumption that the residence subject to the homeowner's property tax exemption is that person's domicile. However, this presumption shall not apply in the event any other residence is listed as the person's current residence address on any driver's license, identification card or vehicle registration issued to that person by, and on file with, the Department of Motor Vehicles.

If a person has more than one residence and that person claims a renter's tax credit for one of the residences pursuant to Section 17053.5 of the Revenue and Taxation Code, there shall be a rebuttable presumption that the residence subject to the renter's tax credit is that person's domicile. However, this presumption shall not apply in the event any other residence is listed as the person's current residence address on any driver's license, identification card, or vehicle registration issued to that person by, and on file with, the Department of Motor Vehicles.

This section shall not be applicable to state or federal elected officials.

2032. Except as provided in this article, if a person has more than one residence and that person has not physically resided at any one of the residences within the immediate preceding year, there shall be a rebuttable presumption that those residences in which he or she has not so resided within the immediate preceding year are merely residences as defined in subdivision (c) of Section 349 and not his or her domicile.

2033. Whenever the house number or the mailing address of a voter has been changed and the voter's domicile is the same, the public agency authorizing the change shall notify the county elections official in writing of the change and the county elections official shall make the change on the voter's affidavit of registration and a new affidavit shall not be required.

2034. A person domiciled in a house or apartment lying in more than one precinct shall be registered as domiciled in the precinct designated by the county elections official on the basis of the street address or other precinct the county elections official considers appropriate unless the person requests, either by letter or in person at the office of the county elections official, that he or she wishes to be domiciled for registration purposes in another precinct in which his or her house or apartment lies. In order to fulfill the requirements of this section, the letter of request shall include the name, signature, and residence address of the requester.

2035. A person duly registered as a voter in any precinct in California who removes therefrom within 28 days prior to an election shall, for the purpose of that election, be entitled to vote in the precinct from which the person so removed until the close of the polls on the date of that election.

Article 3. Visually Impaired Voters

2050. This article shall be known, and may be cited, as the Visually Impaired Voter Assistance Act of 1989.

2051. As used in this article, "visually impaired" means a person having central visual acuity not to exceed 20-200 in the better eye, with corrected lenses, or visual acuity greater than 20-200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends at an angle of not greater than 20 degrees.

2052. It is the intent of the Legislature to promote the fundamental right to vote of visually impaired individuals, and to make efforts to improve public awareness of the availability of ballot pamphlet cassette tapes and improve their delivery to these voters.

2053. (a) The Secretary of State shall establish a Visually Impaired Voter Assistance Advisory Board. This board shall consist of the Secretary of State or his or her designee and the following membership, appointed by the Secretary of State:

(1) A representative from the State Advisory Council on Libraries.

(2) One member from each of three private organizations. Two of the organizations shall be representative of organizations for blind persons in the state.

(b) The board shall do all of the following:

(1) Establish guidelines for reaching as many visually impaired persons as practical.

(2) Make recommendations to the Secretary of State for improving the availability and accessibility of ballot pamphlet cassette tapes and their delivery to visually impaired voters. The Secretary of State may implement the recommendations made by the board.

(3) Increase the distribution of public service announcements identifying the availability of ballot pamphlet cassette tapes at least 45 days before any federal, state, and local election.

(4) Promote the Secretary of State's toll-free voter registration telephone line for citizens needing voter registration information, including information for those who are visually handicapped, and the toll-free telephone service regarding the California State Library and regional library service for the visually impaired.

(c) No member shall receive compensation, but each member shall be reimbursed for his or her reasonable and necessary expenses in connection with service on the board.

CHAPTER 2. REGISTRATION

Article 1. General Provisions

2100. No person shall be registered except as provided in this chapter except upon the production and filing of a certified copy of a judgment of the superior court directing registration to be made.

2101. A person entitled to register to vote shall be a United States citizen, a resident of California, not in prison or on parole for the conviction of a felony, and at least 18 years of age at the time of the next election.

2102. No person shall be registered as a voter except by affidavit of registration. The affidavit shall be mailed or delivered to the county elections official and shall set forth all of the facts required to be shown by this chapter. A properly executed registration shall be deemed effective upon receipt of the affidavit by the county elections official or on the 29th day before an election to be held in the registrant's precinct if both (a) the affidavit is executed on or before the 29th day prior to the election, and (b) the affidavit is received by the county elections official by mail after the 29th day and by the fourth day after the 29th day before the election.

For purposes of verifying signatures on a recall, initiative, or referendum petition or signatures on a nomination paper or any other election petition or election paper, a properly executed affidavit of registration shall be deemed effective for verification purposes if both (a) the affidavit is signed on the same date or a date prior to the signing of the petition or paper, and (b) the affidavit is received by the county elections official on or before the date on which the petition or paper is filed.

Notwithstanding any other provision of law to the contrary, the affidavit of registration required under this chapter shall not be taken under sworn oath, but the content of the affidavit shall be certified as to its truthfulness and correctness, under penalty of perjury, by the signature of the affiant.

2103. (a) It is the intent of the Legislature that the election board of each county, in order to promote and encourage voter registrations, shall establish a sufficient number of registration places throughout the county, and outside the county courthouse, for the convenience of persons desiring to register, to the end that registration may be maintained at a high level.

(b) It is also the intent of the Legislature that county elections officials, in order to promote and encourage voter registrations, shall enlist the support and cooperation of interested citizens and organizations, and shall deputize as registrars qualified citizens in such a way as to reach most effectively every resident of the county. The persons so deputized shall be permitted to register voters anywhere within the county, including at the places of residence of the persons to be registered, and the county elections official shall not deny deputy registrars the right to register voters anywhere in

the county.

(c) It is also the intent of the Legislature that non-English-speaking citizens, like all other citizens, should be encouraged to vote. Therefore, appropriate efforts should be made to minimize obstacles to registration by citizens who lack sufficient skill in English to register without assistance.

(d) Where the county elections official finds that citizens described in subdivision (c) approximate 3 percent or more of the voting age residents of a precinct, or in the event that interested citizens or organizations provide information which the county elections official believes indicates a need for registration assistance for qualified citizens described in subdivision (c), the county elections official shall make reasonable efforts to recruit deputy registrars who are fluent in a language used by citizens described in subdivision (c) and in English. That recruitment shall be conducted through the cooperation of interested citizens and organizations and through voluntarily donated public service notices in the media, including newspapers, radio, and television, particularly those media that serve the non-English-speaking citizens described in subdivision (c). Deputy registrars so appointed shall facilitate registration in the particular precincts concerned and shall have the right to register voters anywhere in the county.

(e) In furtherance of the purposes of this section, the governing board of any county, city, city and county, district, or other public agency, may authorize and assign any of its officers or employees to become deputy registrars of voters and to register qualified citizens on any premises and facilities owned or controlled by those public agencies during the regular working hours of the officers or employees. With the exception of firemen, any compensation to which the officer or employee may be entitled in payment for the services of the officer or employee as a deputy registrar may be paid by the authority that appointed the officer or employee as a deputy registrar to the public agency that regularly employs the officer or employee.

(f) It is the intent of the Legislature that no limitation be imposed on the number of persons appointed to act as deputy registrars of voters.

2104. It is the intent of the Legislature that the introduction of registration by mail shall not in any way lead to administrative limitations on the use of deputy registrars of voters for the purpose of assisting in the registration of persons who may continue to require such assistance.

It is the intent of the Legislature that registrars continue to be deputized by the county elections official pursuant to Section 2103, but that as the electorate becomes more conversant with mail registration procedures, the number of deputy registrars will naturally diminish due to a decrease in the demand for the services of the deputy registrars of voters.

2105. It is the intent of the Legislature that voter registration be

maintained at the highest possible level. The Secretary of State shall adopt regulations requiring each county to design and implement programs intended to identify qualified electors who are not registered voters, and to register those persons to vote. The Secretary of State shall adopt regulations prescribing minimum requirements for those programs. If the Secretary of State finds that a county has not designed and implemented a program meeting the prescribed minimum requirements, the Secretary of State shall design a program for the county and report the violation to the Attorney General.

2106. Any program adopted by a county pursuant to Section 2103 or 2105, that is designed to encourage the registration of electors, shall, with respect to any printed literature or media announcements made in connection with these programs, contain this statement: "A person entitled to register to vote must be a United States citizen, a resident of California, not in prison or on parole for the conviction of a felony, and at least 18 years of age at the time of the election."

2107. (a) Except as provided in subdivision (b), the county elections official shall accept affidavits of registration at all times except during the 28 days immediately preceding any election, when registration shall cease for that election as to electors residing in the territory within which the election is to be held. Transfers of registration for an election may be made from one precinct to another precinct in the same county at any time when registration is in progress in the precinct to which the elector seeks to transfer.

(b) The county elections official or his or her deputy shall accept an affidavit of registration executed as part of a voter registration card in the forthcoming election if both (1) the affidavit is executed on or before the 29th day prior to the election, and (2) the affidavit is received by the county elections official or his or her deputy by mail after the 29th day and by the fourth day after the 29th day.

(c) Upon request, the county elections official may accept an affidavit of registration that was not received in accordance with subdivision (a) or (b) or a newly executed affidavit of registration when evidence supports that the affidavit was executed on or before the 29th day prior to the election and that the affidavit was mishandled by a third party, including the postal service. Evidence is limited to the postmark on the affidavit, or, for that election only, possession of a valid affidavit receipt or a photocopy of a properly executed affidavit. However, when the evidence consists only of possession of a valid affidavit receipt or a photocopy of a properly executed affidavit, the county elections official shall not accept the affidavit of registration after the 27th day prior to the election.

2108. The county elections official shall keep and maintain a current file listing all persons appointed or deputized by the county elections official to register voters, which file shall be open to public inspection. The file shall include the party affiliation, if any, of each person listed.

2109. Any person who is a registered voter qualifies for

appointment as a deputy registrar of voters.

2110. No county elections official may refuse to deputize any person to register voters because of race, creed, color, national origin, ancestry, sex, marital status, disability, religious or political affiliation, or age.

2111. A person may prove he or she is a citizen by his or her certification under penalty of perjury on the affidavit of registration.

2112. Notwithstanding any other provision of law to the contrary, the fact that a person certifies to his or her United States citizenship by signing his or her affidavit of registration shall be deemed evidence of citizenship for voting purposes only.

2113. Any elector absent from the county in which he or she claims residence may request a voter registration card from the county elections official of the county of residence. The county elections official shall furnish a voter registration card, to each elector requesting a card and showing that he or she will be temporarily absent from his or her home county. Upon receipt by the county elections official, the affidavit of registration shall be processed as required by this chapter.

2114. The county elections official of any county in this state may receive the affidavit of registration of any elector who resides or claims residence in another county in this state. The affidavit shall be forwarded to the county elections official of the county in which the elector resides. The county elections official of the county in which the elector resides shall use the affidavit of registration from the other county as his or her permanent record.

Registration by this method shall be effective for all elections occurring 29 or more days after receipt of the affidavit of registration by the county elections official or his or her deputy to which the affidavit is mailed or delivered by the elector.

2115. Whenever a voter, between the time of that person's last registration and the time for the closing of registration for any given election in the same county, has lawfully changed his or her surname, the voter may reregister under the new or changed name. The voter shall make an additional statement at the time of reregistration, giving the name under which he or she was last registered in that county.

This additional statement shall be given in the prior registration portion of the affidavit of registration before the affidavit is signed, and shall be deemed a part of the affidavit. Upon reregistration, the last previous registration of the voter shall be canceled.

2116. Whenever a voter, between the time of that person's last voter registration and the time for the closing of registration for any given election, has changed his or her residence address by moving, the voter shall execute a new affidavit of registration or a notice or a letter of the change of address as permitted in Section 2119, in order to be eligible to vote in the next election.

2117. Except as provided in Section 2119, if a voter reregisters or transfers his or her registration from one precinct to another, the

former address shall be entered in the prior registration portion of the affidavit, and the former registration shall thereupon be canceled.

2118. No person shall register in one county when his or her registration in another remains uncanceled unless he or she complies with this section. Any person who is registered in one county may, if otherwise legally qualified, register in another county in which he or she then resides, at any time before the closing of registration for any election, if in the prior registration portion of the affidavit of registration he or she enters his or her former address.

The county elections official shall at once notify the county elections official of the county in which the old registration is still uncanceled that the voter has reregistered. Upon receipt of the notice of reregistration, the former registration shall be canceled immediately.

2119. (a) In lieu of executing a new affidavit of registration for a change of address within the county the county elections official shall accept a notice or letter of the change of address signed by a voter as he or she is registered.

(b) The county elections official shall accept notifications received by mail by the fourth day after the 29th day before an election, if the notice or letter is dated on or before the 29th day prior to the election, and shall change the address on the voter's affidavit of registration accordingly. Any requests for change of address received prior to an election, but after the day specified herein shall not be applicable to that election but shall apply to all subsequent elections.

(c) Upon request, the registrar of voters may accept a change of address notice that was not received by the county elections official in accordance with this section when evidence supports that the change of address notice was executed on or before the 29th day prior to the election and that the change of address notice was mishandled by a third party, including the postal service. Evidence is limited to the postmark on the notice.

2120. If the county elections official receives a letter from a voter stating that the voter has moved to a new address in another county in the state, the elections official shall immediately notify the elections official of the county to which the voter has moved. Upon receipt of the notice, the elections official of the county to which the voter has moved shall send to the voter a voter registration card, and shall instruct the voter that in order to record a change of address, the voter must reregister on a new affidavit of registration. The elections official shall cancel the old registration for any election occurring at least 29 days after the receipt of the letter.

2121. No fees may be charged for registration.

2122. The county elections official may cause to be written or printed upon the top margin, or in the body of the affidavit, in addition to any matter provided for in this code, any words necessary or convenient to designate the precinct, district, or political

subdivision for which the affidavit is taken, or to indicate any removal or transfer of registration. Any other reasonable memoranda may be added that is necessary or convenient to enable the county elections official to perform his or her duties in assorting or classifying or handling affidavits with correctness and dispatch. However, the memoranda shall not include notations, whether coded or not, that indicate that the registrant has signed a particular initiative, referendum, or recall petition unless the notations are made other than on the body of the affidavit of registration. Any memoranda, notations, devices, computer data, or other means or material employed by the elections official indicating which petition or petitions have been signed by any registrant shall be destroyed as soon as practicable after the certification of the results of the election for which the memoranda, notations, devices, computer data, or other means or material was used, or if no election is held, as soon as practicable after the final certification of the elections official showing the results of the examination of the petition. In no event shall the memoranda, notations, devices, computer data, or other means or material be retained for more than 30 days.

The memoranda, notations, devices, computer data, or other means or material employed by the elections official indicating which petition or petitions have been signed by any registrant shall be available for the use of the elections official and his or her staff only and then only for the purposes for which they were prepared. Except as previously provided, they shall not be made available to any person or entity, public or private, for any purpose whatsoever.

Memoranda added to the body of the affidavit of registration, which are not applicable to the requirements of Section 2150, shall not be deemed a portion of the affidavit.

2123. In accordance with Section 11 of the initiative act approved by a majority of the voters at the general election held on November 4, 1930, (Statutes of 1931, p. lxxxiii) and entitled "An act to amend Sections 1083a, 1094, 1095a, 1097, 1103, 1105, 1106, 1115, 1120, and to repeal Sections 1228 and 1229 of the Political Code, relating to registration of electors and conduct of elections," no amendment by the Legislature shall provide for a general biennial or other periodic reregistration of voters.

Article 2. Reimbursable Voter Outreach Costs

2130. From moneys appropriated by the Legislature, the Controller shall allocate and disburse to the counties the amounts necessary to reimburse them for net costs incurred by them in complying with the voter registration provisions, including the provisions authorizing voter registration by mail and voter outreach programs, as set forth in Chapter 704 of the Statutes of 1975, as amended. The Secretary of State, in consultation with the Controller, shall develop a formula for the reimbursement of these costs. The Controller shall prescribe the forms for filing claims pursuant to this

section. These claims shall be submitted to the Controller by October 31 in the year following the fiscal year in which the costs were incurred.

Article 3. Registration Procedures

2135. The county elections official shall provide voter registration forms for use in registration by deputy registrars of voters. The voter registration forms shall be bound into books or pads. The affidavits included in the voter registration forms shall be numbered and shall have a stub attached as prescribed by Section 2160.

Each affidavit and stub shall bear the same number. The numbering shall begin with one and continue in a sequence until all of the blanks provided are numbered. The numbering shall begin anew with each 1,000,000 affidavits of registration numbered pursuant to this section. Each set of numbers shall be designated alphabetically as a series, beginning with series A, following the first 1,000,000.

2136. Each deputy registrar of voters shall be issued a receipt by the county elections official for all books or pads issued, specifying the numbers of the affidavits received. The deputy is responsible for them until they are returned to the county elections official.

2137. When any elector is registered, his or her name, residence, and residence telephone number, if furnished, shall be entered on the stub attached to the original affidavit. If for any cause the affidavit is spoiled in the course of execution or a mistake is made, the affidavit shall not be destroyed, but the name of the elector for whom it was intended, with his or her residence, shall be entered on the stub as in other cases, and the stubs and affidavits each marked with the word "spoiled."

2138. Individuals and organizations distributing voter registration cards pursuant to subdivision (b) of Section 2158 and who receive completed voter registration cards from voters shall return the completed cards to the county elections official or shall deposit the cards in the postal service within three days, excluding Saturdays, Sundays, and state holidays, of receipt from a voter.

2139. On the day of the close of registration for any election all deputy registrars of voters or individuals and organizations that have submitted plans for distribution shall immediately return all completed affidavits of registration in their possession to the county elections official. Unused affidavits shall be returned upon completion of the distribution plan.

2140. The county elections official shall report to the district attorney of the county, under oath, the name of any deputy registrar of voters who has not complied with this article.

2141. If the county elections official deems a duplicate file of voter registration cards to be necessary for administrative purposes, the county elections official may prepare, upon the receipt in his or her office of each original affidavit of registration, a reproduction

thereof in compliance with the following conditions:

(a) The affidavit is photographed, microphotographed, or reproduced in a manner approved for permanent records by the National Bureau of Standards.

(b) The device used to reproduce the affidavit is one that accurately reproduces the original thereof in all details.

(c) The photographs, microphotographs, or other reproductions are placed in conveniently accessible files and provision is made for preserving, examining, and using the same.

Wherever in this code the term duplicate affidavit is used it shall be deemed to include the reproduced affidavit authorized by this section.

Any signature comparison required by this code may be made against these duplicates.

2142. If the county elections official refuses to register any qualified elector in the county, the elector may proceed by action in the superior court to compel his or her registration. In an action under this section, as many persons may join as plaintiffs as have causes of action.

2143. Costs shall not be recovered against the county elections official in any action under this chapter, unless it is alleged in the complaint, and established on the trial, that the county elections official knowingly and willfully violated his or her duty.

Article 4. Forms

2150. The affidavit of registration shall show:

(a) The facts necessary to establish the affiant as an elector.

(b) The affiant's name at length, including his or her given name, and a middle name or initial, or if the initial of the given name is customarily used, then the initial and middle name. The affiant's given name may be preceded, at affiant's option, by the designation of Miss, Ms., Mrs., or Mr. No person shall be denied the right to register because of his or her failure to mark a prefix to the given name and shall be so advised on the voter registration card. This subdivision shall not be construed as requiring the printing of prefixes on an affidavit of registration.

(c) The affiant's place of residence, and residence telephone number, if furnished. No person shall be denied the right to register because of his or her failure to furnish a telephone number, and shall be so advised on the voter registration card.

(d) The affiant's mailing address, if different from the place of residence.

(e) The affiant's date of birth to establish that he or she will be at least 18 years of age on or before the date of the next election.

(f) The state or country of the affiant's birth.

(g) The affiant's occupation.

(h) The affiant's political party affiliation.

(i) That the affiant is currently not imprisoned or on parole for the

conviction of a felony.

(j) A prior registration portion indicating whether the affiant has been registered at another address, under another name, or as intending to affiliate with another party. If the affiant has been so registered, he or she shall give an additional statement giving that address, name, or party.

The affiant shall certify the content of the affidavit as to its truth and correctness, under penalty of perjury, with the signature of his or her name and if affiant is unable to write he or she shall sign with a mark or cross.

The affiant shall date the affidavit immediately following the affiant's signature. If any person, including a deputy registrar, assists the affiant in completing the affidavit, that person shall sign and date the affidavit below the signature of the affiant.

2151. At the time of registering and of transferring registration, each elector may declare the name of the political party with which he or she intends to affiliate at the ensuing primary election. The name of that political party shall be stated in the affidavit of registration and the index.

The voter registration card shall inform the affiant that any elector may decline to state a political affiliation, but no person shall be entitled to vote the ballot of any political party at any primary election unless he or she has stated the name of the party with which he or she intends to affiliate. The voter registration card shall include a listing of all qualified political parties.

No person shall be permitted to vote the ballot of any party or for any delegates to the convention of any party other than the party designated in his or her registration, except as provided by Section 2152.

2152. Whenever any voter has declined to designate or has changed his or her political affiliation prior to the close of registration for an election, he or she may either so designate or have a change recorded by executing a new affidavit of registration and completing the prior registration portion of the affidavit.

2153. (a) Except as provided in Section 2154, the affidavit of registration shall show all the facts required to be stated.

(b) If the affidavit does not contain all of the information required, but the telephone number of the affiant is legible, the county elections official shall telephone the affiant and attempt to collect the missing information.

(c) If the affidavit does not contain all of the information required, and the county elections official is not able to collect the missing information by telephone, but the mailing address of the affiant is legible, the county elections official shall inform the affiant of the reason for rejection and shall send to the affiant a new voter registration card.

2154. In the event that the county elections official receives an affidavit of registration that does not include portions of the information for which space is provided, the county elections official

or registrar of voters shall apply the following rebuttable presumptions:

(a) If no middle name or initial is shown, it shall be presumed that none exists.

(b) If no occupation is shown, it shall be presumed that the affiant declined to state his or her occupation.

(c) If no party affiliation is shown, it shall be presumed that the affiant has no party affiliation.

(d) If no execution date is shown, it shall be presumed that the affidavit was executed on or before the 29th day prior to the election, provided that (1) the affidavit is received by the county elections official on or before the 29th day prior to the election, or (2) the affidavit is received by mail by the county elections official no later than the fourth day after the 29th day prior to the election.

(e) If the affiant fails to identify his or her state of birth within the United States, it shall be presumed that the affiant was born in a state or territory of the United States if the birthplace of the affiant is shown as "United States," "U.S.A.," or other recognizable term designating the United States.

2155. Upon receipt of a properly executed affidavit of registration or address correction notice or letter pursuant to Section 2119 or Article 2 (commencing with Section 2220), the county elections official shall send the voter a voter notification by nonforwardable, first-class mail, address correction requested. The voter notification shall be substantially in the following form:

VOTER NOTIFICATION

You are registered to vote. You will have to reregister whenever you move.

Your registration is based on either:

1. Your recently completed affidavit of registration,

OR,

2. Correction of your former registration because of a postal notice that you have moved. If your residence address has not changed or if your move is temporary, please call or write the county elections official immediately.

You may vote in any election held 29 or more days after the date shown on the reverse side of this card provided your residence address has not changed.

Your name will appear on the index kept at the polls.

(Signature of Voter)

If a voter notification sent to a voter is returned by the postal authorities to the county elections official, and the postal authorities inform the county elections official that the voter has moved from the address to which the notification was sent, or that the voter is not known at the address to which the notification card was sent, or that the notification is undeliverable as addressed, the county elections official shall cancel the affidavit of registration upon receipt of that information from the postal authorities except for those voters entitled to vote pursuant to Section 2035.

2156. The Secretary of State shall print, or cause to be printed, the blank forms of the voter notification prescribed by Section 2155. The Secretary of State shall supply the forms to the county elections official in quantities and at times requested by the county elections official.

2157. Subject to this chapter, the affidavit of registration shall be in a form prescribed by regulations adopted by the Secretary of State. The affidavit shall:

(a) Contain the information prescribed in Section 2150.

(b) Be sufficiently uniform among the separate counties to allow for the processing and use by one county of an affidavit completed in another county.

(c) Allow for the inclusion of informational language to meet the specific needs of that county, including but not limited to, the return address of the elections official in that county, and a phone number at which a voter can obtain elections information in that county.

(d) Be included on one portion of a multipart card, to be known as a voter registration card, the other portions of which shall include information sufficient to facilitate completion and mailing of the affidavit and to inform the voter that the voter should not consider himself or herself registered until a voter notification is received by return mail. The affidavit portion of the multipart card shall be numbered according to regulations adopted by the Secretary of State. For purposes of facilitating the distribution of voter registration cards as provided in Section 2158, there shall be attached to the affidavit portion a receipt. The receipt shall be separated from the body of the affidavit by a perforated line.

(e) Be returnable to the county elections official as a self-enclosed mailer with postage paid by the Secretary of State.

Nothing contained in this division shall prevent the use of voter registration cards and affidavits of registration in existence on the effective date of this section and produced pursuant to regulations of the Secretary of State, and all references to voter registration cards and affidavits in this division shall be applied to the existing voter registration cards and affidavits of registration.

2158. In addition to registration conducted by deputy registrars of voters, the county elections official shall, do all of the following:

(a) Provide voter registration cards for the registration of voters at his or her office and in sufficient number of locations throughout the county for the convenience of persons desiring to register, to the

end that registration may be maintained at a high level.

(b) Provide voter registration cards in sufficient quantities to any citizens or organizations who wish to distribute the cards other than to persons who have been convicted of violating this section within the last five years. Citizens and organizations shall be permitted to distribute voter registration cards anywhere within the county.

(1) If, after completing his or her voter registration affidavit, an elector entrusts it to another person, the latter shall sign and date the attached, numbered receipt indicating his or her address and telephone number, if any, and give the receipt to the elector. Failure to comply with this paragraph shall not cause the invalidation of the registration of a voter.

(2) Any citizen or organization that distributes voter registration cards shall give a voter registration card to any elector requesting it, provided that the citizen or organization has a sufficient number of cards.

(3) If distribution of voter registration cards pursuant to this subdivision is undertaken by mailing cards to persons who have not requested the cards, the person mailing the cards shall enclose a cover letter or other notice with each card instructing the recipients to disregard the cards if they are currently registered voters.

(c) Mail a voter registration card immediately to any person who wishes to register to vote and requests a voter registration card.

2159. (a) Notwithstanding paragraph (1) of subdivision (b) of Section 2158, any person who, in exchange for money or other valuable consideration, assists another to register to vote by receiving the completed affidavit of registration from the elector, shall personally sign and affix directly on the affidavit of registration the telephone number of the person, company, or organization that agrees to pay money or other valuable consideration for the completed affidavit of registration.

(b) Any person, company, or other organization that agrees to pay money or other valuable consideration to any person who assists another person to register to vote by receiving the completed affidavit of registration shall maintain a list of the names, addresses, and telephone numbers of all individuals that the person, company, or other organization has agreed to compensate for assisting others to register to vote.

(c) Failure to comply with subdivision (a) shall not cause the invalidation of the registration of the voter.

(d) No person, company, or other organization that agrees to pay money or other valuable consideration to any person to assist another to register to vote by receiving the completed affidavit of registration shall render the payment or promised consideration unless the information specified in subdivision (a) has been affixed personally on the affidavit by the person with whom the agreement for payment was made.

2160. Each affidavit of registration issued to a deputy registrar of voters shall meet the requirements prescribed by Section 2157,

except that the voter registration card shall be modified, pursuant to regulations adopted by the Secretary of State, to reflect the use of a deputy registrar of voters in lieu of mail delivery. A stub, separated from the body of the voter registration card by a perforated line, shall be attached to each affidavit. Upon the stub shall be printed the number of the affidavit and blanks for the following:

(a) The name, residence, political affiliation, and signature of the voter.

(b) The signature of the deputy taking the registration.

(c) The date.

At the time of registering the voter, the deputy shall fill in the blanks in the stub, and require the voter to sign the stub in the place provided. The deputy shall then detach the stub and the informational portion of the voter registration form from the affidavit and hand the stub and information to the voter.

2161. The Secretary of State shall print, or cause to be printed, the blank forms of the affidavits of registration and voter registration cards prescribed by this code. The Secretary of State shall bind and number, or cause to be bound and numbered, affidavits of registration and voter registration cards as required by this code. The Secretary of State shall supply the forms to the county elections official in quantities and at times as requested by the county elections official.

2162. (a) No affidavits of registration other than those provided by the Secretary of State to the county elections officials shall be used for the registration of voters.

(b) No voter registration card shall be altered, defaced, or changed in any way, other than by the insertion of a mailing address and the affixing of postage, if mailed, or as otherwise specifically authorized by the Secretary of State, prior to distribution of the cards.

(c) The affidavit portion of a voter registration card shall not be marked, stamped, or partially or fully completed by any person other than an elector attempting to register to vote or by a person assisting the elector in completing the affidavit at the request of the elector.

2163. The Secretary of State shall prepare and print or cause to be printed an appropriate logo that may be displayed on the windows of offices, stores, and other establishments indicating the availability of voter registration cards for the public. The Secretary of State, upon request, shall provide these logos free of charge to any person or organization that distributes voter registration cards.

2164. (a) The Secretary of State shall pay all postage for all of the following:

(1) Mailing of the voter notification and the address correction service pursuant to Section 2153.

(2) Return to the county elections official of the affidavits of registration pursuant to Section 2157.

(3) Mailing of blank voter registration cards pursuant to subdivision (c) of Section 2158.

(4) Any mailing of blank voter registration cards pursuant to programs adopted under Section 2105.

(b) All payments made pursuant to this section shall be made directly from funds appropriated to the Secretary of State for this purpose.

2165. Affidavits of registration for the whole of each county shall be filed, as fast as the registration progresses, in any orderly arrangement as prescribed by the county elections official. If the affidavits are not filed alphabetically without regard to precinct, the county elections official shall, by electronic, electromechanical, or other suitable means, provide, for general use in his or her office, a comprehensive, printed alphabetical index to the surnames of voters on all uncanceled affidavits for the whole of the county, whereby the affidavit of registration of any voter may be ascertained and produced. In the case of voters having the same surname, the classification of names appearing on the index shall extend to the given and, where necessary, the middle name or initial.

2166. (Repealed by Stats. 1994, Ch. 1207.)

[ORIGINAL SECTION]

2166. (a) Affidavits of registration in possession of an elections official for purposes of filing pursuant to Section 2165 shall be maintained on file as a public record.

(b) Any person filing with the county elections official or registrar of voters a new affidavit of registration or reregistration may have the information relating to his or her residence address and telephone number appearing on the affidavit, or any list or roster or index prepared therefrom, declared confidential upon order of a superior court issued upon a showing of good cause that a life threatening circumstance exists to the voter or a member of the voter's household, and naming the county elections official or registrar of voters as a party.

(c) Any person granted confidentiality under subdivision (b) shall:

(1) Be considered an absent voter for all subsequent elections or until the county elections official or registrar of voters is notified otherwise by the court or in writing by the voter. A voter requesting termination of absent voter status thereby consents to placement of his or her residence address and telephone number in the roster of voters.

(2) In addition to the required residence address, provide a valid mailing address to be used in place of the residence address for election, scholarly, or political research, and government purposes. The elections official, in producing any list, roster, or index may, at his or her choice, use the valid mailing address or the word "confidential" or some similar designation in place of the residence address.

(d) No action in negligence may be maintained against any government entity or officer or employee thereof as a result of disclosure of the information that is the subject of this section unless by a showing of gross negligence or willfulness.

2167. Upon the personal or written application of any person, the

county elections official shall, at a fee not to exceed one dollar and fifty cents ($1.50), provide the applicant with a certified copy of the entries upon the register relating to the applicant.

A certified copy of an uncanceled affidavit of registration is prima facie evidence that the person named in the entry is a voter of the county.

Article 5. Voter Registration Index

2180. (a) At least once, and more often if he or she deems it necessary, within each two-year period commencing on the first day of January in each odd-numbered year, the county elections official shall have printed a complete index, by precinct, to the affidavits of registration current at the date of printing.

(b) (1) The index shall contain the name, address, residence telephone number if furnished, and political affiliation of each voter, and also a ruled space to the left of each name, within which to write, in figures, the line number designating the position of the name of the voter on the roster of voters.

(2) The name shall include the given name and the middle name or initials, if any. At the affiant's option, the given name may be preceded by the designation "Miss," "Ms.," "Mrs.," or "Mr."

(c) The index shall be printed in a size no smaller than eight-point roman type on eight-point body and shall be arranged in alphabetical order in accordance with the surnames of the voters.

(d) A space of not less than one-quarter inch or one line of printing shall be left between the names of voters beginning with one letter of the alphabet and those starting with the next letter of the alphabet.

(e) Supplements of the same content and style may be printed as need for them appears.

2181. In addition to printing a complete index within and for each two-year period, as provided in Section 2180, the county elections official may print and maintain one complete and continuing index, by precinct, to the affidavits of registration and keep the index current by supplements and deletions as provided in Sections 2180 and 2183, and by reprinting portions of the index by precinct, as the need appears, the reprinted portions to contain the same information concerning each voter and to be in the same style, spacing, and type of print as provided in Section 2180.

2182. The number of copies of the precinct index printed shall be as many as in the judgment of the county elections official may be necessary for the business of the office. In counties where the precinct index is printed by means of a punched card or other high-speed data processing equipment, the number of copies of precinct indexes so prepared shall be the number required to be furnished by law and as many more as in the judgment of the county elections official may be necessary for the business of the office.

2183. The elections official shall supply copies of the index and of

supplements to the index, necessary to bring it up to date, for all elections to be held within the county. The county elections official shall also supply as many copies of the index and supplements, not to exceed four in number, as may be requested by the elections official of a city, school district or other body. The name of each voter whose affidavit of registration has been canceled shall be lined out of the index and supplement. The county elections official may charge an amount as will reimburse the county for the expense incurred in preparing and furnishing lined out indexes of registrations and supplements other than for those provided for by Sections 2180 and 2182.

In the case of a municipal election, an index provided pursuant to this section shall be supplied to the city elections official not less than 25 days prior to the day of the election for which it is provided. If the index does not contain the names of all people eligible to vote in the election, the county elections official shall supply a supplement to the index, including all voters who registered after the 54th day before the election, not less than seven days prior to the election for which it is provided.

2184. Upon demand of any Member of the Legislature, of Congress, or any candidate who is to be voted for in the county, in a city therein, or in a political subdivision of either, or upon written demand of his or her campaign committee, of any committee for or against any proposed ballot measure, or of any committee for or against any referendum or initiative measure for which legal publication has been made, the county elections official shall furnish to the Member of the Legislature, of Congress, or to either the candidate or his or her campaign committee or to the ballot measure committee no more than two copies of the printed indexes of the registration for the primary and general elections in which the Member of the Legislature or Congress may participate as a candidate, or for the election in which the candidate will participate, or the ballot measure will be voted upon, at a charge of fifty cents ($0.50) per thousand names. All moneys collected shall be deposited in the county treasury to the credit of the general fund.

2185. Upon written demand of the chairman or vice chairman of a party state central committee or of the chairman of a party county central committee, the county elections official shall furnish to each committee, without charge therefor, no more than two copies of the printed indexes of registration for the primary and general elections or for any special election at which a partisan office is to be filled. The copies of the printed indexes of registration shall be furnished to the committee demanding the indexes not less than 25 days prior to the day of the primary, general, or special election for which they are provided. Upon written demand, the county elections official shall also furnish to the committee not less than seven days prior to the above-specified elections, two copies of the printed indexes of registration of voters who registered after the 54th day before the election, which shall be compiled and prepared by Assembly

districts.

2186. (Repealed by Stats. 1994, Ch. 1207.)

[ORIGINAL SECTION]

2186. The county elections official shall have bound together in one or more volumes a general index to the affidavits of registration, arranged alphabetically by precincts, and shall keep at least one copy of the general index in his or her office for public reference.

2187. (a) Each county elections official shall send to the Secretary of State, in a format described by the Secretary of State, a summary statement of the number of voters in the county. The statement shall show the total number of voters in the county, the number registered as affiliated with each qualified political party, the number registered in nonqualified parties, and the number who declined to state any party affiliation. The statement shall also show the number of voters, by political affiliations, in each city, supervisorial district, Assembly district, Senate district, and congressional district, located in whole or in part within the county.

(b) The Secretary of State, on the basis of the statements sent by the county elections officials and within 30 days after receiving those statements, shall compile a statewide list showing the number of voters, by party affiliations, in the state and in each county, city, supervisorial district, Assembly district, Senate district, and congressional district, in the state. A copy of this list shall be made available, upon request, to any elector in this state.

(c) Each county that uses data processing equipment to store the information set forth in the affidavit of registration shall send to the Secretary of State one copy of the magnetic tape file with the information requested by the Secretary of State. Each county that does not use data processing storage shall send to the Secretary of State one copy of the index setting forth that information.

(d) The summary statements and the magnetic tape file copy or the index shall be sent at the following times:

(1) On the 135th day before each presidential primary and before each direct primary, with respect to voters registered on the 154th day before the primary election.

(2) Not less than 50 days prior to the primary election, with respect to voters registered on the 60th day before the primary election.

(3) Not less than 10 days prior to the primary election, with respect to voters registered before the 28th day prior to the primary election.

(4) Not less than 50 days prior to the general election, with respect to voters registered on the 60th day before the general election.

(5) Not less than 10 days prior to the general election, with respect to voters registered before the 28th day prior to the general election.

(6) On or before March 1 of each odd-numbered year, with respect to voters registered as of February 10.

(7) On or before October 1 of each odd-numbered year, with respect to voters registered as of September 12.

(e) The Secretary of State may adopt regulations prescribing the context and format of the magnetic tape file or index referred to in

subdivision (c) and containing the registered voter information from the affidavits of registration.

(f) The Secretary of State may adopt regulations prescribing additional regular reporting times, except that the total number of reporting times in any one calendar year shall not exceed 12.

(g) The Secretary of State shall make the information from the magnetic tape files or the printed indexes available, under conditions prescribed by the Secretary of State, to any candidate for federal, state, or local office, to any committee for or against any proposed ballot measure, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly or political research, or governmental purposes as determined by the Secretary of State.

2188. (a) Any application for voter registration information available pursuant to law and maintained by the Secretary of State or by the elections official of any county shall be made pursuant to this section.

(b) The application shall set forth all of the following:

(1) The printed or typed name of the applicant in full.

(2) The complete residence address and complete business address of the applicant, giving street and number. If no street or number exists, a postal mailing address as well as an adequate designation sufficient to readily ascertain the location.

(3) The telephone number of the applicant, if one exists.

(4) The number of the applicant's driver's license, state identification card, or other identification approved by the Secretary of State if the applicant does not have a driver's license or state identification card.

(5) The specific information requested.

(6) A statement of the intended use of the information requested.

(c) If the application is on behalf of a person other than the applicant, the applicant shall, in addition to the information required by subdivision (b), set forth all of the following:

(1) The name of the person, organization, company, committee, association, or group requesting the voter registration information, including their complete mailing address and telephone number.

(2) The name of the person authorizing or requesting the applicant to obtain the voter registration information.

(d) The elections official shall request the applicant to display his or her identification for purposes of verifying that identifying numbers of the identification document match those written by the applicant on the application form.

(e) The applicant shall certify to the truth and correctness of the content of the application, under penalty of perjury, with the signature of his or her name at length, including given name, middle name or initial, or initial and middle name. The applicant shall state the date and place of execution of the declaration.

(f) Completed applications for voter registration information shall be retained by the elections official for five years from the date of application.

(g) This section shall not apply to requests for information by elections officials for election purposes or by other public agencies for governmental purposes.

(h) The Secretary of State may prescribe additional information to be included in the application for voter registration information.

(Added by Stats. 1994, Ch. 777.)

[ORIGINAL SECTION]

2188. (a) Unless otherwise specifically provided, an application for voter registration information available pursuant to law and maintained by the Secretary of State or by the elections official of any county shall be made pursuant to this section.

(b) The application shall set forth all of the following:

(1) The printed or typed name of the applicant in full.

(2) The complete residence address and complete business address of the applicant, giving street and number. If no street or number exists, a postal mailing address as well as an adequate designation sufficient to readily ascertain the location.

(3) The telephone number of the applicant, if one exists.

(c) If the application is on behalf of a person other than the applicant, the applicant shall, in addition to the information required by subdivision (b), set forth all of the following:

(1) The name of the person, organization, company, committee, association, or group requesting the voter registration information, including their complete mailing address and telephone number.

(2) The name of the person authorizing or requesting the applicant to obtain the voter registration information.

(d) The application shall set forth a statement of the intended use of the information requested.

(e) The applicant shall certify to the truth and correctness of the content of the application, under penalty of perjury, with the signature of his or her name at length, including given name, middle name or initial, or initial and middle name. The applicant shall state the date and place of execution of the declaration.

(f) The Secretary of State may prescribe additional information to be included in the application for voter registration information.

2189. Before the day of any election held throughout the county, the county elections official shall deliver to the precinct board in each precinct three copies of the index to the affidavits of registration for that precinct, with canceled names lined out and with necessary supplements to bring the index up to date. The index and supplements shall constitute the register to be used at the election.

2190. If the county elections official maintains tabulating cards containing the information set forth in the affidavits of registration of voters, or sets forth that information on electronic data processing tape, he or she shall provide, upon request, not less than 30 days prior to each direct primary election and general election, one set of those cards or a copy of the tape to the county central committee of a party for all voters allowed to participate in the subsequent direct primary election or general election. The county elections official shall also furnish to the county central committee, not less than seven days prior to each direct primary election and general election, one set of those cards or a copy of the tape of those voters who registered after the 54th day before the election. The cards or tape shall be provided without charge, except that the county central committee shall provide a replacement for the tape.

In addition to those provided to county central committees, the county elections official shall provide, upon request, a set of cards or a copy of a tape to any candidate or committee specified in Section 2184, provided that the candidate or committee reimburses the county for whatever actual costs are involved in providing this service.

2191. The elections official shall compile an index, list, or file, by precinct, of all persons who voted in the previous statewide general election. This information shall be compiled in conjunction with the purge of voter registration files conducted pursuant to Article 2 (commencing with Section 2220) of Chapter 3.

Information compiled pursuant to this section shall include that information which is required to appear in the index as set forth in Section 2180.

Any person, candidate, or committee who is entitled to obtain a copy of any information contained in this article shall, upon written request to the elections official, be entitled to obtain the index, list, or file compiled pursuant to this section. The elections official shall inform any recipient of this information as to whether the index, list, or file includes a voting history of absent voters. The elections official may require the payment of a fee not to exceed the cost of duplicating the information or providing the tape as a condition to furnishing the information contained in this section.

If the elections official uses data processing equipment, he or she shall make the index available on a data processing tape file on request. The elections official shall be required to retain this file until the next November general election in an even-numbered year has been conducted.

2192. Notwithstanding anything contained in this article, in any county in which tabulating equipment is used to produce the indexes of registration, the indexes shall be furnished to persons, committees, and agencies as provided in this article by street addresses in numerical order, but the indexes may be maintained in alphabetical order. In the event the county contains precincts for which the majority of voters have no street addresses, the indexes for those precincts may be arranged and furnished for all purposes in alphabetical order in accordance with the surnames of voters.

2193. The Secretary of State shall, upon the request of a county elections official, compile, from the information furnished by the county elections officials pursuant to Section 2187, a file of potential duplicate voter registrations. The county elections official may immediately cancel those voter registrations which, upon investigation, are determined to be duplicates. The voter registration bearing the later date shall remain in effect.

2194. (a) The voter registration card information identified in subdivision (a) of Section 6254.4 of the Government Code:

(1) Shall be confidential and shall not appear on any computer terminal, list, affidavit, duplicate affidavit, or other medium routinely available to the public at the county elections official's office.

(2) Shall be provided with respect to any voter, subject to the provisions of Section 2188, to any candidate for federal, state, or local office, to any committee for or against any initiative or referendum measure for which legal publication is made, and to any person for election, scholarly, journalistic, or political purposes, or for governmental purposes, as determined by the Secretary of State.

(b) The home address of any voter shall be released whenever the person's vote is challenged pursuant to Sections 15003, 15005 to 15007, inclusive, or 14240 to 14253, inclusive. The address shall be released only to the challenger, to elections officials, and to other persons as necessary to make, defend against, or adjudicate the challenge.

(c) A governmental entity, or officer or employee thereof, may not be held civilly liable as a result of disclosure of the information referred to in this section, unless by a showing of gross negligence or willfulness.

(Repealed and added by Stats. 1994, Ch. 1207.)

[ORIGINAL SECTION]

2194. (a) With respect to a voter who registers or reregisters to vote by means of a confidential affidavit of registration pursuant to Section 6254.4 of the Government Code:

(1) The home address, telephone number, occupation, precinct number, and prior registration information of the voter shall be replaced by the word "confidential" on every computer terminal, list, affidavit, duplicate affidavit, or any other medium routinely available to the public at the office of the elections official.

(2) The home address, telephone number, occupation, precinct number, and prior registration information of a person granted confidentiality pursuant to Section 6254.4 of the Government Code shall be provided to the following:

(A) An election official, candidate, proponent, person, or committee provided pursuant to Section 2180, 2183, 2184, 2185, 2187, 2190, or 2191, provided that the elections official, candidate, proponent, person, chair or vice chair of a party state central committee, or a party county central committee, or committee treasurer requests the index, cards, or tape in writing signed by the election official, candidate, proponent, person, chair or vice chair of a party state central committee, or a party county central committee, or committee treasurer.

(B) A faculty member or researcher with an accredited educational institution for the purpose of academic research, provided the information is requested in writing signed by the faculty member or researcher.

(3) Indexes prepared on or after January 1, 1992, pursuant to Section 2186 shall not include any information relating to voters registering or reregistering by means of a confidential affidavit of registration pursuant to Section 6254.4 of the Government Code.

(b) The home address of a voter to whom confidentiality is granted shall be released whenever the person's vote is challenged pursuant to Sections 15003, 15005 to 15007, inclusive, or 14240 to 14253, inclusive. The address shall be released pursuant to this section only to the challenger, to elections officials, and to other persons as necessary to make or defend against, or to adjudicate, the challenge.

(c) If a person who has registered or reregistered by means of a confidential affidavit files a declaration of candidacy, and during the filing period for that election, another person files a declaration of candidacy for the same office, the elections official shall immediately transfer the confidential information concerning that candidate to the public record, and from that time through the day following the date of the election for that office the candidate shall not be entitled to confidentiality pursuant to this section as to either current or past registration records.

(d) No action in negligence may be maintained against any governmental entity or officer or employee thereof as a result of disclosure of the information which is the subject of this section unless by a showing of gross negligence or willfulness.

(e) Nothing in this section shall require a change to or replacement of any information on any public record for an individual created prior to the date the individual registers by means of a confidential affidavit of registration.

CHAPTER 3. CANCELLATION AND VOTER FILE MAINTENANCE

Article 1. General Provisions

2200. The registration of a voter is permanent for all purposes during his or her life, unless and until the affidavit of registration is canceled by the county elections official for any of the causes specified in this article.

2201. The county elections official shall cancel the registration in the following cases:

(a) At the signed, written request of the person registered.

(b) When the mental incompetency of the person registered is legally established as provided in Sections 2208, 2209, 2210, and 2211.

(c) Upon proof that the person is presently imprisoned or on parole for conviction of a felony.

(d) Upon the production of a certified copy of a judgment directing the cancellation to be made.

(e) Upon the death of the person registered.

(f) Pursuant to Article 2 (commencing with Section 2220).

(g) Upon receipt of any mailing returned by the postal service as undeliverable.

(h) Upon official notification that the voter is registered to vote in another county or state.

A blank affidavit of registration shall immediately be mailed to the address from which a cancellation is effected pursuant to subdivision (g).

2202. (a) The county elections official shall preserve all uncanceled affidavits of registration.

The affidavits of registration shall constitute the register required to be kept by Article 5 (commencing with Section 2180) of Chapter 2.

(b) In lieu of maintaining uncanceled affidavits of registration, the county elections official may, following the first general election after the date of registration, microfilm, record on optical disc, or record on any other electronic medium that does not permit additions, deletions, or changes to the original document, the uncanceled affidavits of registration. The county elections official may dispose of any uncanceled affidavits of registration transferred pursuant to this section. Any medium utilized by the county elections official shall meet the minimum standards, guidelines, or both, as recommended by the American National Standards Institute, or the Association of Information and Image Management. For purposes of this section, a duplicate copy of an affidavit of registration shall be deemed an original.

2203. (a) Cancellation is made by writing or stamping on the affidavit of registration the word "canceled," the reason the affidavit was canceled, and the date of cancellation.

(b) Whenever a voter transfers his or her registration from one

precinct to another precinct in the same county, or reregisters in another precinct in the same county as shown by the new affidavit of registration, the county elections official shall immediately cancel the affidavit of registration from the precinct in which the voter was first registered, and shall remove the affidavit from the file of uncanceled affidavits.

(c) Except as provided in Section 2119, whenever a voter removes from one county to another county and registers in the latter county, the county elections official of the county in which he or she was first registered, upon being informed of his or her removal either by the voter personally or by receipt of a notice of reregistration under Section 2118, shall likewise cancel his or her registration and remove the affidavit of registration in that county.

(d) The county elections official in distributing to each precinct the three indexes of registration, as required by Section 2189, shall cross out of those indexes the names of all voters whose affidavits of registration from the precinct have been canceled.

2204. Notwithstanding any other provision of law, whenever a voter changes his or her residence within the same precinct, the voter's affidavit of registration shall not be cancelled. Whenever notified by the voter, the elections official shall change the voter's affidavit of registration to reflect the new residence address within the same precinct.

2205. The local registrar of births and deaths shall notify the county elections official not later than the 15th day of each month of all deceased persons 18 years of age and over, whose deaths were registered with him or her or of whose deaths he or she was notified by the state registrar of vital statistics during the preceding month. This notification shall include at least the name, sex, age, birthplace, birthdate, place of residence, date and place of death of each decedent.

The county elections official shall cancel the affidavit of registration of each deceased voter.

2206. The Secretary of State shall adopt regulations to facilitate the availability of death statistics from the State Department of Health Services. The data shall be used by county elections officials in canceling the affidavit of registration of deceased persons.

2207. On completion of the canvass of the returns for each election, the elections official shall compare the absent voters list with the roster of voters in each precinct to determine if any voter cast more than one ballot at that election.

2208. (a) A person shall be deemed mentally incompetent, and therefore disqualified from voting, if, during the course of any of the proceedings set forth below, the court finds that the person is not capable of completing an affidavit of voter registration in accordance with Section 2150 and any of the following apply:

(1) A conservator for the person or the person and estate is appointed pursuant to Division 4 (commencing with Section 1400) of the Probate Code.

(2) A conservator for the person or the person and estate is appointed pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code.

(3) A conservator is appointed for the person pursuant to proceedings initiated under Section 5352.5 of the Welfare and Institutions Code, the person has been found not competent to stand trial, and the person's trial or judgment has been suspended pursuant to Section 1370 of the Penal Code.

(4) A person has plead not guilty by reason of insanity, has been found to be not guilty pursuant to Section 1026 of the Penal Code, and is deemed to be gravely disabled at the time of judgment as defined in paragraph (2) of subdivision (h) of Section 5008 of the Welfare and Institutions Code.

(b) If the proceeding under the Welfare and Institutions Code is heard by a jury, the jury shall unanimously find that the person is not capable of completing an affidavit of voter registration before the person shall be disqualified from voting.

(c) Whenever an order establishing a conservatorship is made and in connection with the order it is found that the person is not capable of completing an affidavit of voter registration, the court shall forward the order and determination to the county elections official of the person's county of residence.

2209. (a) For conservatorships established pursuant to Division 4 (commencing with Section 1400) of the Probate Code, the court investigator shall, during the yearly or biennial review of the conservatorship as required by Chapter 2 (commencing with Section 1850) of Part 3 of Division 4 of the Probate Code, review the person's capability of completing an affidavit of voter registration in accordance with Section 2150.

(b) If the person had been disqualified from voting by reason of being incapable of completing an affidavit of voter registration, the court investigator shall determine whether the person has become capable of completing the affidavit, and, the investigator shall so inform the court.

If the investigator finds that the person is capable of completing the affidavit, the court shall hold a hearing to determine whether the person is in fact capable of completing the affidavit. If the person is found to be capable of completing the affidavit, the person's right to register to vote shall be restored and the court shall so notify the county elections official.

(c) If the person had not been found to be incapable of completing an affidavit of voter registration, and, the court investigator determines that the person is no longer capable of completing the affidavit, the investigator shall so notify the court. The court shall hold a hearing to determine whether the person is capable of completing an affidavit of voter registration, and, if the court determines that the person is not so able, the court shall order the person to be disqualified from voting and the court will so notify the county elections official.

2210. (a) If the person or the person and estate is under a conservatorship established pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, the person may contest his or her disqualification from voting pursuant to the procedure set forth in Section 5358.3 of the Welfare and Institutions Code.

(b) When the conservatorship described in subdivision (a) terminates after one year, the person's right to register to vote shall also be automatically restored and notification to the appropriate county elections official shall be made. If a petition is filed for the reappointment of the conservator, a new determination shall be made as to whether the person should be disqualified from voting.

(c) If the right to vote is restored pursuant to Section 5358.3 of the Welfare and Institutions Code or if the conservatorship is terminated in a proceeding held pursuant to Section 5364 of the Welfare and Institutions Code, the court shall notify the county elections official of the person's county of residence that the person's right to register to vote is restored.

2211. (a) Any person who (1) has plead not guilty by reason of insanity and who has been found to be not guilty pursuant to Section 1026 of the Penal Code, (2) has been found incompetent to stand trial and whose trial or judgment has been suspended pursuant to Section 1370 of the Penal Code, (3) has been convicted of a felony and who was judicially determined to be a mentally disordered sex offender pursuant to former Section 6300 of the Welfare and Institutions Code, as repealed by Chapter 928 of the Statutes of 1981, or (4) has been convicted of a felony and is being treated at a state hospital pursuant to Section 2684 of the Penal Code shall be disqualified from voting or registering to vote during that time that the person is involuntarily confined, pursuant to a court order, in a public or private facility.

(b) Upon the order of commitment to a treatment facility referred to in subdivision (a), the court shall notify the elections official of the county of residence of the person and order the person to be disqualified from voting or registering to vote.

(c) If the person is later released from the public or private treatment facility, the court shall notify the county elections official of the county of residence of the person that the right of the person to register to vote is restored.

2212. (a) As used in this section, "county clerk" does not include "registrar of voters."

(b) The county clerk, on the basis of the records of courts in the county having jurisdiction of those offenses, shall furnish to the chief elections official of the county, not less frequently than the first day of April and the first day of September of each year, a statement showing the names, addresses, and dates of birth of all persons who have been convicted of felonies since the county clerk's last report, and who are currently imprisoned. The elections official shall, during the first week of April and the first week of September in each year,

cancel the affidavits of registration of those persons who are currently imprisoned or on parole for the conviction of a felony. The county clerk shall certify the statement under the seal of his or her office.

2213. Any person may proceed by action in the superior court to compel the county elections official to cancel any registration made illegally or which should be canceled by reason of facts that have occurred subsequent to the registration. If the voter whose registration is sought to be canceled is not a party to the action, the court may order him or her to be made a party defendant.

The county elections official and as many persons against whom there are causes of action may be joined as defendants.

Article 2. Residency Confirmation

2220. (a) The county elections official shall conduct a preelection residency confirmation procedure as provided in this article. That procedure shall be initiated by mailing a nonforwardable postcard to each registered voter of the county preceding the direct primary election. Postcards mailed pursuant to this article shall be sent "Address Correction Requested, Return Postage Guaranteed," and shall be in substantially the following form:

"We are requesting your assistance in correcting the addresses of voters who have moved and have not reregistered.

1. If you still live at the address noted on this postcard, your voter registration will remain in effect and you may disregard this notice.

2. If the person named on this postcard is not at this address, please return this postcard to your mail carrier."

(b) The county elections official, at his or her discretion, shall not be required to mail a residency confirmation postcard pursuant to subdivision (a), to any voter who has voted at an election held within the last six months preceding the start of the confirmation procedure.

(c) The county elections official, in lieu of mailing a residency confirmation postcard pursuant to subdivision (a) to conduct the preelection residency confirmation procedure as provided in this article, may use the change-of-address data services of the United States Postal Service obtained pursuant to Section 2228.

2221. (a) In any county in which an election is held between September 1 and December 30 of an odd-numbered year, the county elections official may, in lieu of mailing a postcard to each registered voter in the county as provided for in Section 2220, include the return address of the county elections official's office on the outside portion of the sample ballot or sample ballot envelope mailed to the voter at the election, along with the statements "Address Correction Requested" and "Notice: if the person named on this sample ballot

is not at this address, please return this sample ballot to your mail carrier."

(b) If elections are held on more than one date between September 1 and December 30 of the odd-numbered years and the territories covered by the elections do not overlap, the county elections official shall apply subdivision (a) to each election held in the county, if the county elections official elects to follow this section.

(c) If elections are held on more than one date between September 1 and December 30 of the odd-numbered years and the territories covered by the elections do overlap, the county elections official shall designate which elections shall be covered by subdivision (a).

2222. If a county adopts Section 2221, and the elections held between September 1 and December 30 of the odd-numbered years are not held throughout the county, the county elections official shall employ Section 2220 in the portions of the county in which no elections are held between September 1 and December 30 of the odd-numbered years.

2223. All address corrections and cancellations of affidavits of registration made pursuant to Sections 2221 and 2222 shall be reflected on the voter index as required by subdivision (a) of Section 2191.

2224. (a) Based on the postal notices on the returned residency confirmation postcards received pursuant to Section 2220 or the sample ballot received pursuant to Section 2221, the county elections official shall take the following actions:

(1) The affidavits of registration of persons whose residency confirmation postcards or sample ballots are returned by the post office as undeliverable and who have no forwarding address shall be canceled.

(2) The affidavits of registration of persons for whom forwarding addresses within the county are received shall be corrected to reflect the new address provided by the post office.

(3) The affidavits of registration of persons for whom forwarding addresses outside of the county are received shall be canceled. Such persons shall be sent a notice of the cancellation at their out-of-county address.

(b) Blank affidavits of registration shall immediately be mailed to the addresses from which voter registrations were canceled or changed pursuant to this section.

(c) All address corrections and cancellations of affidavits of registration made pursuant to this section shall be reflected on the voter index as required by subdivision (a) of Section 2191.

2225. If the county elections official conducted the preelection residency confirmation mailing provided for in this article, on completion of the canvass of the returns of the general election the elections official shall:

(a) Examine the absent voters list and the roster of voters that was maintained by the precinct board in each precinct in the county at

the general election.

(b) No later than the first week of the following January, mail a notice by means of first-class, nonforwardable postcard, prepaid by the elections official, to every person who failed to vote at the general election, stating substantially the following:

"We are requesting your assistance in correcting the addresses of voters who have moved and have not reregistered.

1. If you still live at the address noted on this postcard your voter registration will remain in effect.

2. If the person named on this postcard is not at this address, please return the postcard to your mail carrier."

2226. Within 30 days of the mailing of postcards pursuant to subdivision (b) of Section 2225, the county elections official shall take the following actions:

(a) Correct the address on the nonvoter's affidavit of registration if the nonvoter has moved to a different stated residence within the county.

(b) Cancel the affidavit of registration if the nonvoter has moved to an address outside the county. The nonvoter shall be sent a notice of the cancellation at his or her out-of-county residence.

(c) Cancel the affidavits of registration for all nonvoters for whom the nonvoter residency confirmation postcard is undeliverable.

Blank affidavits of registration shall immediately be mailed to the addresses for which the voter registrations were canceled or changed pursuant to this section.

The effective day of cancellation shall be the 30th day following the date the notice is mailed to the nonvoter. Upon the cancellations, an affidavit of registration shall immediately be mailed to the address at which the canceled nonvoters were registered. All address corrections and cancellations made pursuant to this section shall be reflected on the voter index within 60 days of the nonvoter residency confirmation mailing.

2227. Before every election and on election day the county elections official shall do each of the following:

(a) Assign a sufficient number of qualified persons in the office of the elections official to receive and verify claims of erroneous cancellations of affidavits of registration, and cause the affidavits to be immediately reinstated.

(b) Supply each polling place with a list of voters in the precinct whose affidavits of registration were canceled since the previous general election pursuant to this article.

At every election the elections official shall provide a page in the Roster of Voters for the signature, under oath, attesting to continuous

residency in the precinct, of any voter whose affidavit may have been canceled because of erroneous postal notification. Canceled affidavits of registration of voters whose signatures appear on the roster page shall be reinstated by the elections official.

2228. The county elections official may contract with the United States Postal Service or its licensee to obtain use of postal service change-of-address data, such as the National Change of Address System and Operation MAIL. The elections official shall send a notice in substantially the following form to registered voters who, based on the data obtained from the postal service, have changed their addresses:

"Important Voter Registration Information

You have recently filed a change-of-address notice with the United States Postal Service.

We will reregister you at your new address unless, within 15 days, you notify us that your change of address is not a change of your permanent residence."

The notice shall include either a prepaid return notice to the elections official or a toll-free telephone number where the voter may notify the clerk that the change of address is not a change of permanent residence.

Article 3. Reimbursable File Maintenance

2240. From moneys appropriated by the Legislature, the Controller shall reimburse counties for additional costs incurred by counties for purging voter registration files pursuant to Article 2 (commencing with Section 2220).

2241. Any claim submitted to the Controller pursuant to this article shall state that the county had reimbursable costs and the number of registered voters in the county as determined by the Secretary of State under subdivisions (c) and (d) of Section 2187. The claims shall be made to the Controller by October 31 of the even-numbered year in which a direct primary and general election are held.

CHAPTER 4. MOTOR VOTER

DIVISION 3. ABSENTEE VOTING, NEW RESIDENT, AND NEW CITIZEN VOTING

CHAPTER 1. ABSENTEE APPLICATION AND VOTING PROCEDURES

3000. This division shall be liberally construed in favor of the absent voter.

3001. Except as provided in Chapter 3 (commencing with Section 3200), application for an absent voter's ballot shall be made in writing to the elections official having jurisdiction over the election between the 29th and the 7th day prior to the election. The application shall be signed by the applicant and shall show his or her place of residence. Any applications received by the elections official prior to the 29th day shall be kept and processed during the application period.

3002. (a) Notwithstanding Section 3001, a person granted confidentiality pursuant to Section 2166 shall be considered an absent voter.

(b) The provisions of Chapter 3 (commencing with Section 3200) relating to permanent absent voters shall apply so far as they may be consistent with this section and Section 2166.

(c) All persons granted confidentiality pursuant to Section 2166 shall (1) be required to vote by mail ballot, and (2) in addition to the required residence address, provide a valid mailing address to the county elections official to be used in place of the residence address.

3003. The absentee ballot shall be available to any registered voter.

3004. The county elections official shall place a notice in any office within the county where applications are taken for federal passports or where military enlistments are received to inform potential special absentee voters of their right to an absent voter's ballot and where registration materials and application forms can be obtained.

3005. Whenever, on the 88th day before the election, there are 250 or less persons registered to vote in any precinct, the elections official may furnish each voter with an absentee ballot along with a statement that there will be no polling place for the election. The elections official shall also notify each voter of the location of the two nearest polling places in the event the voter chooses to return the ballot on election day. The voter shall not be required to file an application for the absentee ballot and the ballot shall be sent as soon as the ballots are available.

No precinct shall be divided in order to conform to this section.

3006. (a) Any printed application that is to be distributed to voters for requesting absent voter ballots shall contain spaces for the following:

(1) The printed name and residence address of the voter as it

appears on the affidavit of registration.

(2) The address to which the ballot is to be mailed.

(3) The voter's signature.

(4) The name and date of the election for which the request is to be made.

(5) The date the application must be received by the elections official.

(b) (1) The information required by paragraphs (1), (4), and (5) of subdivision (a) may be preprinted on the application. The information required by paragraphs (2) and (3) of subdivision (a) shall be personally affixed by the voter.

(2) An address, as required by paragraph (2) of subdivision (a), may not be the address of any political party, a political campaign headquarters, or a candidate's residence. However, a candidate, his or her spouse, immediate family members, and any other voter who shares the same residence address as the candidate may request that an absentee ballot be mailed to the candidate's residence address.

(3) Any application which contains preprinted information shall contain a conspicuously printed statement, as follows: "You have the legal right to mail or deliver this application directly to the local elections official of the county where you reside."

(c) The application shall provide the voters with information concerning the procedure for establishing permanent absentee voter status, and the basis upon which permanent absentee voter status is claimed.

(d) The application shall be attested to by the voter as to the truth and correctness of its content, and shall be signed under penalty of perjury.

3007. The Secretary of State shall prepare and distribute to appropriate elections officials a uniform application format for an absent voter's ballot that conforms to chapter. This format shall be followed by all individuals, organizations, and groups who distribute applications for an absent voter's ballot. The uniform format need not be utilized by elections officials in preparing an absent voter's ballot application to be included with the sample ballot.

3008. (a) Any individual, organization, or group that distributes applications for absent voter ballots and receives completed application forms shall return the forms to the appropriate elections official within 36 hours of receiving the completed forms, or before the deadline for application, whichever is sooner. The name, address, and telephone number of any organization that authorizes the distribution of the applications shall be included on the application.

(b) Any application for an absent voter's ballot that is sent by an individual, group, or organization to a voter shall be nonforwardable. Any absent voter's ballot that is returned to an elections official as undeliverable shall not be forwarded by the elections official.

3009. (a) Upon receipt of any absentee ballot application signed by the voter that arrives within the proper time, the elections official should determine if the signature and residence address on the ballot

application appear to be the same as that on the original affidavit of registration. The elections official may make this signature check upon receiving the voted ballot, but the signature must be compared before the absent voter ballot is canvassed.

(b) If the elections official deems the applicant entitled to an absent voter's ballot he or she shall deliver by mail or in person the appropriate ballot. The ballot may be delivered to the applicant, his or her spouse, or his or her parent if the applicant is unmarried. The elections official shall deliver the absentee ballot to the applicant's spouse or parent only if the spouse or parent signs a statement attested to under penalty of perjury that provides the name of the applicant, his or her relationship to the applicant, and affirms that he or she is authorized by the applicant to deliver the absentee ballot.

(c) If the elections official determines that an application does not contain all of the information prescribed in Section 3001 or 3006, or for any other reason is defective, and the elections official is able to ascertain the voter's address, the elections official shall, within one working day of receiving the application, mail the voter an absent voter's ballot together with a notice. The notice shall inform the voter that the voter's absent voter's ballot shall not be counted unless the applicant provides the elections official with the missing information or corrects the defects prior to, or at the time of, receipt of the voter's executed absent voter's ballot. The notice shall specifically inform the voter of the information that is required or the reason for the defects in the application, and shall state the procedure necessary to remedy the defective application.

If the voter substantially complies with the requirements contained in the elections official's notice, the voter's ballot shall be counted.

In determining from the records of registration if the signature and residence address on the application appear to be the same as that on the original affidavit of registration, the elections official or registrar of voters may use the duplicate file of affidavits of registered voters or the facsimiles of voter's signatures, provided that the method of preparing and displaying the facsimiles complies with law.

3010. The elections official shall deliver to each qualified applicant:

(a) The ballot for the precinct in which he or she resides. In primary elections this shall be the ballot for the party with which he or she is affiliated or, when appropriate, a nonpartisan ballot.

(b) All supplies necessary for the use and return of the ballot.

No officer of this state may make any charge for services rendered to any voter under this chapter.

3011. The identification envelope shall contain the following:

(a) A declaration, under penalty of perjury, stating that the voter resides within the precinct in which he or she is voting and is the person whose name appears on the envelope.

(b) The signature of the voter.

(c) The residence address of the voter as shown on the affidavit

of registration.

(d) The date of signing.

(e) A notice that the envelope contains an official ballot and is to be opened only by the canvassing board.

(f) A warning plainly stamped or printed on it that voting twice constitutes a crime.

(g) A statement that the voter has neither applied, nor intends to apply, for an absent voter's ballot from any other jurisdiction for the same election.

3012. Whenever the elections official is required to mail an absent voter's ballot to any elector and the address to which the ballot is to be mailed is a point outside the territorial limits of the United States, the elections official shall mail the absent voter's ballot to the elector by airmail and, if under any law of the United States official election ballots may be mailed without the payment of postage, the elections official shall so mail them.

3013. Upon delivering or mailing an absent voter's ballot, the elections official shall enter on the application of the absent voter, or on the affidavit of registration, the type of ballot and the date of delivering or mailing. Before the election the elections official shall send to the inspector of each precinct in his or her county or city a list of the voters in that precinct applying for and receiving ballots under the provisions of this chapter.

3014. The elections official shall send a second absent voter ballot to any voter upon receipt of a statement under penalty of perjury that the voter has failed to receive, lost, or destroyed his or her original ballot.

The elections official shall keep a record of each absent voter ballot sent to and received from a voter and shall verify, prior to counting any duplicate ballot, that the voter has not attempted to vote twice. If it is determined that a voter has attempted to vote twice, both ballots shall be void.

3015. Absent voters who return to their home precincts on election day may vote only if they surrender their absent voter ballots to the inspector of the precinct board.

The precinct board shall return the unused absent voter's ballots to the elections official in an envelope designated for this purpose.

3016. Any absent voter who is unable to surrender his or her absent voter's ballot within the meaning of Section 3015 shall be issued a provisional ballot in accordance with Section 14310.

3017. All absentee ballots cast under this division shall be voted on or before the day of the election. After marking the ballot, the absent voter shall either: (1) return the ballot by mail or in person to the elections official from whom it came or (2) return the ballot in person to any member of a precinct board at any polling place within the jurisdiction. However, an absent voter who, because of illness or other physical disability, is unable to return the ballot, may designate his or her spouse, child, parent, grandparent, grandchild, brother, or sister to return the ballot to the elections official from

whom it came or to the precinct board at any polling place within the jurisdiction. The ballot must, however, be received by either the elections official from whom it came or the precinct board before the close of the polls on election day.

The elections official shall establish procedures to insure the secrecy of any ballot returned to a precinct polling place.

The provisions of this section are mandatory, not directory, and no ballot shall be counted if it is not delivered in compliance with this section.

3018. Any voter using an absentee ballot may, prior to the close of the polls on election day, vote the ballot at the office of the elections official. The voter shall vote the ballot in the presence of an officer of the elections official or in a voting booth, at the discretion of the elections official, but in no case may his or her vote be observed. Where voting machines are used the elections official may provide one voting machine for each ballot type used within the jurisdiction.

3019. Upon receipt of the absentee ballot the elections official shall compare the signature on the envelope with that appearing on the affidavit of registration and, if they compare, deposit the ballot, still in the identification envelope, in a ballot container in his or her office. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot. If the ballot is rejected because the signatures do not compare, the envelope shall not be opened and the ballot shall not be counted. The cause of the rejection shall be written on the face of the identification envelope.

If the elections official has compared the signature of the voter's application with the affidavit pursuant to Section 3009, the application may be used rather than the affidavit to make the signature check required by this section.

No ballot shall be removed from its identification envelope until the time for processing. No ballot shall be rejected for cause after the envelope has been opened.

In determining from the records of registration if the signature and residence address on the identification envelope appear to be the same as that on the affidavit of registration, the elections official or registrar of voters may use the duplicate file of affidavits of registered voters or the facsimiles of voter's signatures, provided that the method of preparing and displaying the facsimiles complies with law.

3020. All absentee ballots cast under this division shall be received by the elections official from whom they were obtained or by the precinct board no later than the close of the polls on election day.

3021. After the close of the period for requesting absent voter ballots by mail any voter unable to go to the polls because of illness or disability resulting in his or her confinement in a hospital, sanatorium, nursing home, or place of residence, or any voter unable

because of a physical handicap to go to his or her polling place or because of that handicap is unable to vote at his or her polling place due to existing architectural barriers at his or her polling place denying him or her physical access to the polling place, voting booth, or voting apparatus or machinery, or any voter unable to go to his or her polling place because of conditions resulting in his or her absence from the precinct on election day may request in a written statement, signed under penalty of perjury that a ballot be delivered to him or her. This ballot shall be delivered by the elections official to any authorized representative of the voter who presents this written statement to the elections official.

Before delivering the ballot the elections official may compare the signature on the request with the signature on the voter's affidavit of registration, but in any event, the signature shall be compared before the absent voter ballot is canvassed.

The voter shall mark the ballot, place it in the identification envelope, fill out and sign the envelope and return the ballot, personally or through the authorized representative, to either the elections official or any polling place within the jurisdiction.

These ballots shall be processed and counted in the same manner as other absentee ballots.

3022. The elections official shall include with the sample ballot an application for an absent voter ballot.

3023. Each ballot that is delivered pursuant to this chapter shall be accompanied by a ballot pamphlet, unless the voter has already been provided a ballot pamphlet.

CHAPTER 2. SPECIAL ABSENTEE APPLICATION AND VOTING PROCEDURES

3100. When a special absentee voter applies for an absent voter's ballot and the elections official determines that he or she is not registered to vote, the elections official shall send the affidavit of registration card with the ballot. The affidavit of registration must be completed by the voter and returned with the voted ballot or the ballot shall not be counted.

If the application has been made upon a federal form for absentee ballots the form shall be deemed an affidavit of registration and the applicant shall be considered registered for that election only. If the special absentee voter requests an absentee ballot for the ensuing primary election, the elections official shall also consider the request valid for the ensuing general election.

If the applicant is not a resident of the county to which he or she has applied, the elections official receiving the application shall forward it immediately to the proper county.

3101. Upon timely receipt of the affidavit of registration and the voted absentee ballot, the elections official shall examine the affidavit to ascertain that it is properly executed in accordance with this code and that the applicant is a qualified elector of the county.

If the elections official is satisfied of these facts, the applicant shall be deemed a duly registered voter as of the date appearing on the affidavit to the same extent and with the same effect as though he or she had registered in proper time prior to the election.

3102. Applications for the ballots of special absentee voters shall be received, and the ballots shall be received and canvassed at the same time and under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with this chapter.

3103. (a) Notwithstanding any other provision of the law, a special absentee voter who qualifies pursuant to this section may apply for a special absentee voter ballot. Any application made pursuant to this section that is received by the elections official prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) If a special absentee voter submits an application containing a statement that provides that due to military or other contingencies that preclude normal mail delivery, as specified by the voter, the voter cannot vote an absentee ballot during the normal absentee voting period, and the voter is otherwise qualified to vote as a special absentee voter, the elections official shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State, or a ballot and voter registration card if required by Section 3100. The elections official shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and a list of all measures that are to be submitted to the voters and on which the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 15351 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination.

(d) The elections official shall receive and canvass special absentee voter ballots described in this section under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with this section, except that prior to election day, special absentee voter ballots shall be secured separately in a sealed ballot box reserved for that purpose.

(e) In the event that a voter executes a special absentee ballot pursuant to this section and the military or other contingency does not exist during the normal absentee voting period, that voter may make an application for an absentee ballot pursuant to Sections 3100 and 3101. If an application is made pursuant to this subdivision, the elections official shall reject the voted ballot previously cast and process the application in accordance with Chapter 1 (commencing with Section 3000).

(f) Notwithstanding any other provision of law, a special absentee voter who qualifies pursuant to this section may, by facsimile transmission, register to vote and apply for an absent voter's ballot. Upon request, the elections official shall send to the qualified special

absentee voter either by mail or facsimile transmission the special absentee ballot or, if available, an absent's voter ballot pursuant to Chapter 1 (commencing with Section 3000).

3104. Any absentee voter ballot application by a qualified special absentee voter for a primary election shall also be deemed an application for a special absentee ballot for the subsequent general election.

3105. When an affidavit of registration is found to be insufficient both the affidavit and the voted ballot are to be rejected. The word "rejected" and the date shall be written across the face of the affidavit and across the front of the ballot envelope. The words "not registered" shall also be written across the identification envelope.

If it appears the applicant is entitled to register and vote in some other city or county, the elections official shall immediately transmit the affidavit and the ballot to the proper city or county. The affidavit and ballot shall then be processed in accordance with this chapter.

3106. When the affidavit is received by an elections official, other than a county clerk, the elections official receiving it shall, after the election, transmit it to the county clerk who, if the affidavit is not subject to rejection, shall file the original. If an affidavit of registration is rejected, it shall be returned to the applicant with the reason for rejection endorsed on it, together with a new blank affidavit card.

3107. If any special absentee voter is released from service after the closing date of registration for an election and has returned to the county of his or her residence and is not a registered voter, he or she may apply in person to the elections official for permission to register. If the elector furnishes documentary proof of release from service after the closing date of registration for the election, the elections official shall allow him or her to be registered and to vote in the election. On or before the day of election the elections official shall deliver to the precinct board a list of special absentee voters registered under this section.

3108. If any special absentee voter to whom an absent voter's ballot has been mailed and which ballot has not been voted by him or her returns to the county in which he or she is registered on or before election day, he or she may apply to the elections official for permission to vote. The elections official shall require him or her to sign an authorization to cancel the absent voter's ballot previously issued when it is returned to the county elections official. The elections official shall then issue another absent ballot to the special absentee voter, to be voted in the elections official's office, or the elections official shall certify to the precinct board that the special absentee voter is eligible to vote in the precinct polling place of his or her residence upon complying with the other requirements of this code.

3109. If any special absentee voter returns to the county of his or her residence after the final day for making application for an absent voter ballot, he or she may appear before the elections official and

make application for registration, absent voter ballot, or both. The elections official shall register the voter, if he or she is not registered, and deliver to him or her an absent voter ballot which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and returned as are other absent voter ballots.

3110. If a registered special absentee voter is unable to appear at his or her polling place because of being recalled to service after the final day for making application for an absent voter's ballot, but before 5 p.m. on the day before the day of election, he or she may appear before the elections official and make application for an absent voter's ballot. The elections official shall deliver to him or her an absent voter's ballot which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and returned as are other absent voter's ballots.

3111. Whenever by any statute of the United States, provision is made for absentee voting, an application for an absent voter's ballot made under that law may be given the same effect as an application for an absent voter's ballot made under this code.

If, by any federal statute, provision is made for the transmission of applications for absent voter's ballots to the Secretary of State, he or she shall transmit the applications to the county elections official of the county in which the applicant claims residence.

3112. If by any act of Congress which is now or may become effective during the effective period of this section, provision is made for voting by special absent voter, that act shall control and be superior to any conflicting provisions of this code, and all state, county, municipal and district officers who are charged with the performance of duties with reference to the election laws of this state shall perform the duties and discharge the obligations placed upon them by that act of Congress. It is the purpose and intent of this section that full effect shall be given to ballots cast by special absentee voters under federal statutes in order that no person shall be deprived of his or her vote by virtue of having cast his or her ballot under any federal statute rather than under the laws of this state.

CHAPTER 3. PERMANENT ABSENTEE APPLICATION AND VOTING PROCEDURES

3200. A voter who qualifies under this chapter shall be entitled to become a permanent absent voter.

3201. (a) Any voter who has any of the following impairments or conditions may apply for permanent absent voter status:

(1) Has lost one or more limbs or the use of one or more limbs.

(2) Has lost both hands or the use of both hands.

(3) Is unable to move about without the aid of an assistant device (e.g., canes, crutches, walker, wheelchair).

(4) Is suffering from lung disease, blindness, or cardiovascular

disease.

(5) Has a significant limitation in the use of the lower extremities.

(6) Is suffering from a diagnosed disease or disorder that substantially impairs or interferes with his or her mobility.

(b) The following voters may also apply for permanent absent voter status:

(1) A spouse who resides with, and is the primary caregiver to, a voter described in subdivision (a).

(2) A nonspousal primary caregiver to a voter described in subdivision (a) who resides with the voter. As used in this subdivision, "nonspousal primary caregiver" means a blood relative or family member related by marriage who has primary responsibility for the care of the voter.

(c) Application for permanent absent voter status shall be made in accordance with Section 3001. The voter or other person described in subdivision (b) shall complete an application, which shall be available from the county elections official, and which shall contain all of the following:

(1) Applicant's name at length.

(2) Applicant's residence address.

(3) Address where ballot is to be mailed, if different from the place of residence.

(4) Information which establishes the applicant's right to permanent absent voter status.

(5) The signature of the applicant.

3202. In lieu of executing the application set forth in Section 3201, any voter may execute a request for permanent absent voter status by making a written request to the county elections official requesting the status. If a written request is received by the county elections official and it contains the information set forth in Section 3201, the elections official shall process that application in the manner provided in Section 3203.

3203. Upon receipt of an application for permanent absent voter status the county elections official shall process the application in the same manner as an application for regular absent voters' ballots. In addition to processing applications in accordance with Chapter 1 (commencing with Section 3000), if it is determined that the applicant is a registered voter, the county elections official shall place the voter's name upon a list of those to whom an absentee ballot is sent each time there is an election within their precinct. The elections official shall keep a copy of the list on file open to the public inspection for election and governmental purposes.

3204. The county elections official shall send a copy of the list of all voters who qualify as permanent absent voters to each city elections official or district elections official charged with the duty of conducting an election within the county. The list shall be sent by the sixth day before an election.

3205. Absent voter ballots mailed to, and received from, voters on the permanent absent voter list are subject to the same deadlines and

shall be processed and counted in the same manner as all other absent voter ballots.

3206. A voter whose name appears on the permanent absent voter list shall remain on the list and shall be mailed an absentee ballot for each election conducted within his or her precinct. If the voter fails to return an executed absent voter ballot for any statewide direct primary or general election in accordance with Section 3017 the voter's name shall be deleted from the list.

CHAPTER 4. FEDERAL ABSENTEE APPLICATION AND VOTING PROCEDURES

3300. It is the intent and purpose of the Legislature that this chapter facilitate the federal mandate of the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 99-410).

3301. Notwithstanding any other provision of law to the contrary, this chapter shall govern the voter registration and voting of a person in any federal election if that person resides outside of the United States and was domiciled in California immediately prior to his or her departure from the United States.

3302. Each citizen residing outside the United States shall have the right to register absentee for, and to vote by, an absentee ballot in any federal election in the state, or in any precinct of the state in which he or she was last domiciled immediately prior to his or her departure from the United States and in which he or she would have met all qualifications to vote in federal elections under the laws of this state, even though while residing outside the United States he or she does not have a place of abode or other address in this state or in a precinct of this state, and his or her intent to return to this state or to a precinct in this state may be uncertain, if the person meets the following requirements:

(a) He or she has complied with all applicable requirements that are consistent with this chapter concerning absentee registration for, and voting by, absentee ballots.

(b) He or she does not maintain a domicile, is not registered to vote, and is not voting in any other state or precinct of a state or territory or in any territory or possession of the United States.

(c) He or she has a valid passport or card of identity and registration issued under the authority of the Secretary of State of the United States.

3303. Any person described in Section 3302 who desires to register and vote under this chapter shall apply in writing to the elections official of the county in which the person was last domiciled prior to departure from the United States.

3304. (a) A voter described in Section 3302 may apply for an absent voter ballot. Any application made pursuant to this section that is received by the elections official prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) If the voter submits an application containing a statement that provides that due to contingencies that preclude normal mail delivery, as specified by the voter, the voter cannot vote an absentee ballot during the normal absentee voting period, and the voter is otherwise qualified to vote as provided in this chapter, the elections official shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State, or a ballot and voter registration card if required by Section 3307. The elections official shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and for whom the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking the nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 15351 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination.

(d) The elections official shall receive and canvass the absent voter ballots described in this section under the same procedure as other absent voter ballots, insofar as that procedure is not inconsistent with this section, except that prior to election day, the absent voter ballots described in this section shall be secured separately in a sealed ballot box reserved for that purpose.

3305. Upon receipt of an application for registration or for an absent voter ballot by a person who meets the requirements of Section 3302 the county elections official shall determine the following:

(a) That the last domicile of the applicant in the United States was in the county to which the person has applied. If the last domicile of the applicant in the United States was in another county, the elections official shall forward the application to that county.

(b) That the applicant is not currently registered. If the applicant is registered as a resident of the county, the elections official shall cancel the affidavit of registration.

3306. Any absent voter ballot application by a qualified voter, as described in this chapter, for a primary election shall also be deemed an application for an absent voter ballot for the subsequent general election.

3307. (a) As soon as possible after the 60th day before the federal election, the county elections official shall mail or deliver a ballot to each person who has requested registration as an overseas voter since the last regularly scheduled federal election.

(b) If the overseas voter has not correctly completed and returned a federal application for an absentee ballot or a special affidavit of registration as an overseas voter since the last regularly scheduled federal election the elections official shall enclose an affidavit with the ballot.

(c) The overseas voter shall be informed of the following:

(1) That the affidavit must be correctly completed and returned with the ballot in order for the vote to be tallied.

(2) That the voter's registration will be valid through the next general election, and that the ballots for these elections will be sent to the voter at the mailing address provided by the voter, but that following the general election, the voter must reapply in order to again receive an overseas voter ballot.

(d) The affidavits of registration mailed or delivered pursuant to this section shall conform to Section 2157, except as modified pursuant to regulations adopted by the Secretary of State to reflect the requirements of this chapter.

(e) Absent voter ballots mailed or delivered pursuant to this section shall be modified pursuant to regulations adopted by the Secretary of State so as to show only those offices for which the overseas resident is entitled to vote.

3308. Upon timely receipt of the affidavit of registration and the voted absentee ballot, the county elections official shall examine the affidavit to ascertain that it is properly executed in accordance with this code and that the applicant is a qualified elector of the county. If the county elections official is satisfied of these facts, the applicant shall be deemed a duly registered voter as of the date appearing on the affidavit to the same extent and with the same effect as though he or she had registered in proper time prior to the election.

3309. If an overseas ballot is returned to the county elections official with an improperly completed affidavit or without the affidavit, and the voter has not completed an overseas voter affidavit or a federal absentee voter application since the last general election, the ballot shall be canceled and shall not be tallied.

3310. Applications for the ballots of overseas voters shall be received and their ballots shall be received and canvassed at the same time and under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with this chapter.

3311. All absentee ballots cast pursuant to this chapter shall be received by the county elections official not later than 8 p.m. on the day of a federal election.

CHAPTER 5. NEW RESIDENTS APPLICATION AND VOTING PROCEDURES

3400. Registration for new residents shall be in progress beginning with the 28th day prior to an election and ending on the seventh day prior to election day.

This registration must be executed in the county elections office and the new resident shall vote a new resident's ballot in that office.

3401. The new residents' affidavits of registration shall be kept separate from the files of permanent affidavits of registration of voters, and they shall not be used in connection with the preparation of the index of voters prepared under Sections 2180 and 2181, until they are either canceled or become permanent pursuant to Section 3406.

3402. The Secretary of State shall have blank affidavits of

registration prepared for new residents that contain the information required in Section 2157. The affidavit shall be the same as the regular affidavit of registration except that it shall have a removable portion with the caption "new resident."

3403. The envelope into which a new resident is to place the ballot shall bear upon its face the name and official title of the county elections official and upon the other side a printed affidavit in substantially the following form:

State of California }
County of _____ } ss.

I, _____, declare that I am a citizen of the United States, that on the day of the next election for federal offices shall be at least 18 years of age, a resident of this state prior to the election, and am a resident of the City or Town of _____, County of _____, State of California; I have not voted, nor shall I cast a vote on a ballot from the state from which I have removed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

_____
(Date)

_____
(Signature)

_____
(Residence address)

3404. The new resident shall mark the ballot, place it in the identification envelope, and fill out and sign the declaration printed on the identification envelope.

3405. The ballots of new residents shall be received and canvassed at the same time and under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with this chapter.

3406. After completing the official canvass, but no later than 60 days before the next regular election, the county elections official shall send a forwardable notice to each voter registered as a "new resident." The notice shall be a double postcard in substantially the following form:

(Part 1)

You are now registered in _____ County as a "new resident" and under California law your registration must be canceled unless the second portion of this form is returned to the county elections office within 30 days. Failure to return this form by _____ means
(Date)
you must reregister before being allowed to vote. Upon receipt of this form by the county elections official your affidavit of registration will become permanent and you will be eligible to vote in any election held within your precinct.

_____
County Elections Official

_____
County

_____
Date

* * * * * * *

(Part 2)

DECLARATION OF RESIDENCY

I, _____ am a resident of the state, of the
(Print name)
county, and of the precinct. I reside at

_____
(Street address) (City)

_____
(County) (Zip code)
(this address must be within the county).

_____
Signature of voter

_____
Date

WARNING: This document is signed under penalty of perjury.

3407. Upon receipt of the signed declaration of residency the elections official shall compare the signature shown on the declaration with those shown on the "new resident" affidavit of registration. If it is the same, the elections official shall remove the part identifying the affidavit as that of a new resident, attach the declaration to the affidavit, make any necessary address change and file the affidavit in the manner prescribed by this code.

3408. The county elections official shall keep open to public inspection a list showing the names and addresses of all persons who have voted as new residents.

CHAPTER 6. NEW CITIZENS APPLICATION AND VOTING PROCEDURES

3500. Any new citizen is eligible to register and vote at the office of the county elections official at any time beginning on the 28th day before an election and ending on the seventh day prior to election day.

3501. A new citizen registering to vote after the close of registration shall provide the county elections official with proof of citizenship prior to voting, and shall declare that he or she has established residency in California. Upon receipt of proof of citizenship and California residency, the county elections official shall instate the affiant as a registered voter and include his or her affidavit of registration in the permanent file of affidavits.

3502. The ballots of new citizens shall be received and canvassed at the same time and under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with this chapter.

3503. The county elections official shall keep open to public inspection a list of all persons who have registered as new citizens.

DIVISION 4. MAIL BALLOT ELECTIONS

CHAPTER 1. CONDITIONS FOR MAIL BALLOT ELECTION

4000. Any local, special, or consolidated election may be conducted wholly by mail provided that all of the following conditions apply:

(a) The governing body of the local agency authorizes the use of mailed ballots for the election.

(b) The election does not occur on the same date as a statewide direct primary election or statewide general election.

(c) The election is one of the following:

(1) An election in which no more than 1,000 registered voters are eligible to participate.

(2) A maximum property tax rate election as provided for in Section 2287 of the Revenue and Taxation Code.

(3) An election on a measure or measures restricted to (A) the imposition of special taxes, or (B) expenditure limitation overrides, or (C) both (A) and (B), in a city, county, or special district with 5,000 or less registered voters calculated as of the time of the last report of registration by the county elections official to the Secretary of State.

(4) An election on the issuance of a general obligation water bond in accordance with Section 12944.5 of the Water Code.

(5) An election of the Directors of the Monterey Peninsula Water Management District as authorized in Section 122 of Chapter 527 of the Statutes of 1977, known as the Monterey Peninsula Water Management District Law.

(6) An election of the Aliso Water Management Agency, or its

affected member agencies, pursuant to Sections 13416 and 13417 of the Water Code.

(7) An election of the San Jacinto Mountain Area Water Study Agency pursuant to Sections 13416 and 13417 of the Water Code.

(8) An election of the San Lorenzo Valley Water District pursuant to Sections 13416 and 13417 of the Water Code.

4001. (a) Notwithstanding Section 4000, any election in Placer County or Stanislaus County may be conducted as an all-mail ballot election, subject to the following conditions:

(1) The governing body of the city, county, or district may, by resolution, authorize the all-mail ballot election and shall notify the Secretary of State of its intent to conduct an all-mail ballot election at least 88 days prior to the date of the election.

(2) The election shall not occur on the same date as a statewide primary or general election.

(3) The election is not a special election to fill a vacancy in a state office, the State Legislature, or Congress.

(4) At least one polling place is provided in each city, with one additional polling place for each 30,000 registered voters.

(5) By December 15, 1994, the elections official shall report to the Legislature and the Governor on the cost, rate of participation, and incidence of fraud involved in implementing this section.

(6) The return of voted mail ballots are subject to Section 3017.

(b) This section shall remain in effect only until January 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1995, deletes or extends that date.

4002. Notwithstanding Section 4000, a special district may conduct its elections by mail in accordance with Sections 1501, 1502, 4104, 4105, and 4108.

4003. Notwithstanding any other provision of law, whenever any district has adopted the all-mailed ballot procedure for conducting general district elections pursuant to Section 4104 and any other election is scheduled to be held in territory that is the same or partly the territory of the district on the first Tuesday after the first Monday in November of the odd-numbered year, the district may, by resolution of the governing board, revoke the adoption of the all-mailed ballot procedure and order the general district election consolidated with the other election pursuant to Section 10402.

CHAPTER 2. CONDUCT OF MAIL BALLOT ELECTIONS

4100. Except as otherwise provided in this chapter, mail ballot elections shall be conducted in accordance with Chapter 1 (commencing with Section 3000) of Division 3.

4101. Notwithstanding Sections 12111, 12117, 13300, and 13303, the elections official shall not commence to mail the combined sample ballot and mail ballot prior to the 29th day before the election and shall complete the mailing by the 10th day before the election.

4102. The elections official may include in the mailings set forth

in Section 4101 a printed notice to the voters informing the voters that they may return the voted ballot by certified or registered mail.

4103. Notwithstanding Section 3020, ballots cast under this chapter shall be returned to the elections official from whom they were obtained no later than 8 p.m. on election day.

4104. (a) At the first general district election conducted by all-mailed ballot the following question shall be printed on the ballot and boxes shall be provided for the voter to indicate "Yes" or "No":

"SHALL THE MAILED BALLOT BE USED TO CONDUCT ALL FUTURE GENERAL DISTRICT ELECTIONS?"

(b) If the majority of the voters favor the all-mailed ballot election it shall be adopted as the procedure for conducting future general district elections. If the question is rejected by the voters it may be resubmitted at any subsequent general district election in the manner provided for in Section 4105.

4105. The question set forth in Section 4104, as to whether an all-mailed ballot election is required to be used in the conduct of all future general district elections, shall be printed on the ballot of any general district election upon (a) the adoption of an appropriate resolution by the governing board, or (b) upon the submission of an initiative petition to the governing board signed by voters not less in number than 10 percent of the voters in the district pursuant to the procedure set forth in Chapter 4 (commencing with Section 9300) of Division 9.

This section shall apply only to those districts in which an election by all-mailed ballots was conducted pursuant to a resolution adopted by the governing board of the district in the manner provided for by Section 4108.

4106. (a) Notwithstanding any other provision of law to the contrary, a governing board in the County of San Diego may adopt a resolution requiring its general district election to be held on the same day as the statewide direct primary election or the day of the statewide general election.

(b) If an election is held pursuant to subdivision (a), and the election is consolidated with another election, Part 3 (commencing with Section 10400) of Division 10 shall govern the consolidation and, if the county elections official is requested to conduct the election, Section 10002 shall apply to that election.

(c) If, pursuant to subdivision (a), a general district election is held on the same day as a statewide election, those officers whose four-year terms of office would have, prior to the adoption of the resolution, expired on the first Friday in December following the general district election in an odd-numbered year shall, instead, either continue in their offices until no later than the fourth Tuesday after the day of the general district election or, at the option of the governing board, cease to hold office prior to the expiration of their four-year term and upon the qualification of their successors at the

time prescribed by the governing board.

4107. (a) Notwithstanding any other provision of law, the governing board of the Marina County Water District in the County of Monterey may adopt a resolution requiring its general district election to be held on the same day as the statewide direct primary election or the day of the statewide general election.

(b) If an election is held pursuant to subdivision (a), and the election is consolidated with another election, Part 3 (commencing with Section 10400) of Division 10 shall govern the consolidation, and, if the county elections official is requested to conduct the election, Section 10002 shall apply to that election.

(c) If, pursuant to subdivision (a), a general district election is held on the same day as a statewide election, those officers whose four-year terms of office would have, prior to the adoption of the resolution, expired on the first Friday in December following the general district election in an odd-numbered year shall, instead, either continue in their offices until no later than the fourth Tuesday after the day of the general district election or, at the option of the governing board, cease to hold office prior to the expiration of their four-year term and upon the qualification of their successors at the time prescribed by the governing board.

4108. Notwithstanding any other provisions of law and regardless of the number of eligible voters within its boundaries a district may, by resolution of its governing board, conduct any election by all-mailed ballots pursuant to Division 4 (commencing with Section 4000).

An election conducted pursuant to this section shall be held on a date prescribed in Section 1501 or on any other date other than an established election date.

DIVISION 5. POLITICAL PARTY QUALIFICATIONS

CHAPTER 1. NEW PARTY QUALIFICATIONS

5000. This chapter shall apply to political parties not otherwise provided for in Division 7 (commencing with Section 7000).

5001. Whenever a group of electors desires to qualify a new political party meeting the requirements of Section 5100, that group shall form a political body by:

(a) Holding a caucus or convention at which temporary officers shall be elected and a party name designated, which name shall not conflict with that of any existing party or political body that has previously filed notice pursuant to subdivision (b).

(b) Filing formal notice with the Secretary of State that the political body has organized, elected temporary officers, and declared an intent to qualify a political party pursuant to Section 5100. The notice shall include the names and addresses of the temporary officers of the political body.

5002. Upon receipt of the notice specified in Section 5001, the

Secretary of State shall notify each county elections official of the name of the political body and its intent to qualify as a political party.

In preparing the statement of voters and their political affiliations, the county elections officials shall tabulate by political affiliation the affidavits of registration of members of political parties qualified pursuant to Section 5100, and political bodies formally declaring an intent to qualify as political parties pursuant to Section 5001. All other affidavits of registration, except those of persons declining to state a political affiliation, shall be tabulated as miscellaneous registrations.

5003. A political body within the first 70 days after filing the formal notice required by Section 5001 is entitled, upon request to the Secretary of State, to have counted toward its qualification as a political party affidavits of registration in which voters declared affiliation with the political body prior to the date the political body filed the formal notice with the Secretary of State.

5004. If by the 135th day before any primary election, a political body filing notice pursuant to Section 5001 has not qualified as a political party pursuant to Section 5100, the political body shall be considered to have abandoned its attempt to qualify as a political party and shall be ineligible to participate in the following primary.

5005. Until otherwise provided for by statute, a political party newly qualified pursuant to Section 5100 shall carry on its activities in accordance with procedures applicable to any other political party that has detailed statutory provisions applicable to its operation as shall be designated by the newly qualified party. The temporary officers of the newly qualified political party elected pursuant to Section 5001 shall file notice of its selection with the Secretary of State not later than 30 days after the political party qualifies.

5006. Any political party newly qualifying pursuant to Section 5100 shall conduct its presidential primary election in accordance with procedures applicable to any other political party that has detailed statutory provisions applicable to its presidential primary as shall be designated by the newly qualified party.

If a newly qualified political party has not elected permanent officers, the temporary officers shall notify, on or before February 1 of the presidential primary year, the Secretary of State of the designated procedures the party has selected for its presidential primary.

CHAPTER 2. PARTIES QUALIFIED TO PARTICIPATE IN THE PRIMARY ELECTION

5100. A party is qualified to participate in any primary election under any of the following conditions:

(a) If at the last preceding gubernatorial election there was polled for any one of its candidates for any office voted on throughout the state, at least 2 percent of the entire vote of the state.

(b) If on or before the 135th day before any primary election, it appears to the Secretary of State, as a result of examining and totaling

the statement of voters and their political affiliations transmitted to him or her by the county elections officials, that voters equal in number to at least 1 percent of the entire vote of the state at the last preceding gubernatorial election have declared their intention to affiliate with that party.

(c) If on or before the 135th day before any primary election, there is filed with the Secretary of State a petition signed by voters, equal in number to at least 10 percent of the entire vote of the state at the last preceding gubernatorial election, declaring that they represent a proposed party, the name of which shall be stated in the petition, which proposed party those voters desire to have participate in that primary election. This petition shall be circulated, signed, verified and the signatures of the voters on it shall be certified to and transmitted to the Secretary of State by the county elections officials substantially as provided for initiative petitions. Each page of the petition shall bear a caption in 18-point blackface type, which caption shall be the name of the proposed party followed by the words "Petition to participate in the primary election." No voters or organization of voters shall assume a party name or designation which is so similar to the name of an existing party as to mislead voters.

5101. Whenever the registration of any party that qualified in the previous direct primary election falls below one-fifteenth of 1 percent of the total state registration, that party shall not be qualified to participate in the primary election but shall be deemed to have been abandoned by the voters. The Secretary of State shall immediately remove the name of the party from any list, notice, ballot, or other publication containing the names of the parties qualified to participate in the primary election.

5102. No party shall be recognized or qualified to participate in any primary election that either directly or indirectly carries on, advocates, teaches, justifies, aids, or abets the overthrow by any unlawful means of, or that directly or indirectly carries on, advocates, teaches, justifies, aids, or abets a program of sabotage, force and violence, sedition or treason against, the government of the United States or of this state.

CHAPTER 3. DISQUALIFICATION OF POLITICAL PARTIES

5200. Not less than 123 days before a primary election, the Secretary of State shall, with the advice and consent of the Attorney General, determine which parties are disqualified to participate in any primary election under Section 5102. If it is proposed to disqualify a party that was qualified to participate in the next preceding direct primary, notice of intention to disqualify shall be served by registered mail on the chairperson of the state central committee of the party, as shown by the records of the Secretary of State. In any event, notice of intention to disqualify shall be given in each county of the state by publication pursuant to Section 6061 of

the Government Code. If there is no newspaper of general circulation printed and published in any county, publication shall be made in a newspaper of general circulation printed and published in an adjoining county.

If the party desires a hearing on the notice of intention to disqualify, it shall, within 10 days after service by mail or within 10 days after the last date upon which the notice was published in any county, whichever is later, file an affidavit in the Supreme Court under Section 13314 setting forth facts showing that the political party is not disqualified to participate in any primary election under Section 5102. If the party does not file the affidavit within the time specified, the notice of intention to disqualify shall constitute final disqualification. Before the affidavit is filed, a copy shall be personally served on the Secretary of State. When filed, the matter shall be set for return in not more than 10 days and shall have priority over any other pending cases.

In connection with proceedings in the Supreme Court under this section, the Legislature hereby declares its intent to create a speedy and expeditious method for judicial determination of the vital questions involved, and urges the Supreme Court to accept jurisdiction in any such proceeding. The Legislature further urges that the court instruct any referee before whom the taking of evidence is ordered to report back to the court in sufficient time so that the court's final order may be made effective on or before the 80th day before the primary election.

DIVISION 6. PRESIDENTIAL ELECTIONS

PART 1. PARTISAN PRESIDENTIAL PRIMARIES

CHAPTER 1. DEMOCRATIC PRESIDENTIAL PRIMARY

Article 1. General Provisions

6000. This chapter shall be known and may be cited as the "Alquist Open Presidential Primary Act."

6001. This chapter applies to the Democratic Party.

6002. This chapter applies both to the selection of delegates and alternates pledged to the candidacy of a particular candidate and to the selection of delegates and alternates not expressing a preference for a particular candidate.

6003. (a) Participation in the delegate selection process in primaries and caucuses shall be restricted to Democratic voters only who publicly declare their party preference as Democratic supporters and whose affidavits of registration declare the Democratic Party as their party affiliation. At no stage of the delegate selection process shall any person be required, directly or indirectly, to pay a cost or fee as a condition for participating in the delegate selection process.

(b) No person shall participate or vote in the nominating process for the Democratic presidential candidate who also participates in the nominating processes of any other party in the same presidential election year.

(c) No person shall participate in more than one congressional district delegate caucus.

6004. All official Democratic Party meetings and events related to the national convention delegate selection process, including caucuses, conventions, committee meetings, filing dates, and party enrollment periods shall be scheduled for dates, times, and public places which are consistent with this chapter and which would be most likely to encourage the participation of all Democrats.

6005. (a) In the selection of the state's national convention delegation as a whole, consideration shall be given to achieving the goals of the State Democratic Party's affirmative action plan.

(b) There shall be approximately equal division between delegate men and delegate women and alternate men and alternate women in the national convention delegation.

Article 2. Number and Certification of Delegates and Alternates

6020. (a) The Chairperson of the Democratic State Central Committee shall notify the Secretary of State on or before the 120th day preceding the presidential primary as to the number of delegates and alternates to represent the state in the next national convention of the Democratic Party.

(b) The chairperson shall notify each statewide-elected officeholder, each Member of the Legislature, each United States Senator from California, and each Member of the House of Representatives from California who is affiliated with the Democratic Party as to the officeholder's right to serve as a pledged elected official delegate to the Democratic National Convention.

(c) The chairperson shall also notify the Secretary of State at the time prescribed in subdivision (a) as to the number of delegates which may be selected from each congressional district in connection with the presidential primary. The number of delegates which may be selected from each congressional district shall be based on a formula which apportions 75 percent of the state's base delegation allocated by the Democratic National Committee, among the congressional districts in a manner which gives equal weight to the vote for the Democratic candidates in the most recent presidential and gubernatorial elections.

The number of delegates allocated to each congressional district shall be rounded off to the nearest whole integer. The remaining delegates and alternates shall be selected pursuant to Article 11 (commencing with Section 6200).

(d) Delegates and alternate delegates apportioned to each congressional district shall be selected based on the proportion of the vote a presidential candidate or uncommitted delegation receives

within the congressional district pursuant to Section 6200.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6020. (a) The Chairperson of the Democratic State Central Committee shall notify the Secretary of State on or before the first of February immediately preceding the presidential primary as to the number of delegates and alternates to represent the state in the next national convention of the Democratic Party.

(b) The chairperson shall notify each statewide-elected officeholder, each Member of the Legislature, each United States Senator from California, and each Member of the House of Representatives from California who is affiliated with the Democratic Party as to the officeholder's right to serve as a pledged elected official delegate to the Democratic National Convention.

(c) The chairperson shall also notify the Secretary of State at the time prescribed in subdivision (a) as to the number of delegates which may be selected from each congressional district in connection with the presidential primary. The number of delegates which may be selected from each congressional district shall be based on a formula which apportions 75 percent of the state's base delegation allocated by the Democratic National Committee, among the congressional districts in a manner which gives equal weight to the vote for the Democratic candidates in the most recent presidential and gubernatorial elections.

The number of delegates allocated to each congressional district shall be rounded off to the nearest whole integer. The remaining delegates and alternates shall be selected pursuant to Article 11 (commencing with Section 6200).

(d) Delegates and alternate delegates apportioned to each congressional district shall be selected based on the proportion of the vote a presidential candidate or uncommitted delegation receives within the congressional district pursuant to Section 6200.

This section shall become operative on January 1, 1998.

6021. (a) All persons wishing to be elected to a district-level or at-large delegate or alternate position shall file a statement of candidacy designating the presidential or uncommitted preference of the delegate candidate, and a signed pledge of support for the presidential candidate the person favors, if any, with the state party chair by a time specified by the party chair.

(b) If persons eligible for pledged party and elected official delegate positions have not made known their presidential preference under subdivision (a), their preferences shall be ascertained through alternative procedure established by the Democratic State Party. An alternative system may have a later deadline for submitting a pledge of support than the regular procedure.

(c) All presidential candidates or uncommitted delegations shall hold caucuses to select congressional district delegate candidates and

alternate delegate candidates pursuant to Section 6086.

6022. The proportions of alternate delegates elected at the district level, at-large, and as unpledged and pledged add-on party and elected officials alternates shall be the same as the proportions of delegates elected in those categories.

Members of Congress selected as unpledged delegates at a Democratic Caucus of the United States House of Representatives and at a Democratic Conference of the United States Senate, as provided by Democratic National Committee Rules, shall not be entitled to name a replacement.

6023. The notification of the number of delegates and alternate delegates shall be in substantially the following form:

Statement of Number of Delegates and Alternate Delegates to Democratic National Convention and of Number of Delegates and Alternate Delegates to Be Selected from Congressional Districts

To the Secretary of State
Sacramento, California

You are hereby notified that the number of delegates and alternate delegates to represent the State of California in the next national convention of the Democratic Party is _____.

You are hereby notified that the number of delegates which may be selected from all congressional districts as a part of the delegation to the national convention of the Democratic Party is as follows:

Congressional District No. 1. ____ delegates ____ alternates.
Congressional District No. 2. ____ delegates ____ alternates.
Congressional District No. 3. ____ delegates ____ alternates.
(Followed by the remaining congressional districts).

You are hereby notified that the number of pledged party and elected official delegates, at-large delegates, and at-large alternate delegates is as follows:

Pledged Party and Elected Official Delegates _____
At-large Delegates _____
At-large Alternate Delegates _____

Dated this _____ day of _____, 19__.

_____
Chairperson of the State Central Committee of the Democratic Party.

6024. If the Chairperson of the Democratic State Central Committee fails to file the notice required by Section 6020 with the Secretary of State, the Secretary of State shall ascertain the total number of delegates from the call for the national convention issued

by the National Committee of the Democratic Party and shall compute the number of delegates which may be selected from each congressional district from the formula specified in Section 6020.

Article 3. Selection of Candidates by the Secretary of State

6040. This article shall apply to the designation of candidates by the Secretary of State for placement only on the presidential primary ballot.

6041. The Secretary of State shall place the name of a candidate upon the presidential primary ballot when he or she has determined that the candidate is generally advocated for or recognized throughout the United States or California as actively seeking the nomination of the Democratic Party for President of the United States. The Secretary of State shall include as criteria for selecting candidates the fact of qualifying for funding under the Federal Elections Campaign Act as amended in 1974.

Between the 150th day and the 120th day preceding a presidential primary election, the Secretary of State shall publicly announce and distribute to the news media for publication a list of the selected candidates that he or she intends to place on the ballot at the following presidential primary election. Following this announcement the Secretary of State may add candidates to the selection, but he or she may not delete any presidential candidate whose name appears on the announced list except as provided in Section 6043.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6041. The Secretary of State shall place the name of a candidate upon the presidential primary ballot when he or she has determined that the candidate is generally advocated for or recognized throughout the United States or California as actively seeking the nomination of the Democratic Party for President of the United States. The Secretary of State shall include as criteria for selecting candidates the fact of qualifying for funding under the Federal Elections Campaign Act as amended in 1974.

After January 1, but on or before February 1, immediately preceding a presidential primary election, the Secretary of State shall publicly announce and distribute to the news media for publication a list of the selected candidates that he or she intends to place on the ballot at the following presidential primary election. Following this announcement the Secretary of State may add candidates to the selection, but he or she may not delete any presidential candidate whose name appears on the announced list except as provided in Section 6043.

This section shall become operative on January 1, 1998.

6042. When the Secretary of State decides to place the name of a candidate on the ballot pursuant to Section 6041, he or she shall

notify the candidate that the candidate's name will appear on the ballot of this state in the presidential primary election.

The secretary shall also notify the candidate that the candidate may withdraw his or her name from the list of recognized candidates by filing with the Secretary of State an affidavit pursuant to Section 6043 no later than the 64th day before the presidential primary election.

6043. If a selected candidate or an unselected candidate files with the Secretary of State, no later than the time specified in Section 6042, an affidavit stating without qualification that he or she is not now a candidate for the office of President of the United States, and stating that similar documents, also without qualification, have been or will be timely filed, where applicable, with the appropriate public election official in all other states holding open presidential primaries, that candidate's name shall be omitted from the list of names certified by the Secretary of State to the county elections officials for the ballot and his or her name shall not appear on the ballot.

Article 4. Qualification of Candidates and Uncommitted Delegations

6060. This article shall apply to the qualification for placement on the presidential primary ballot of candidates who are not selected candidates as referred to in Section 6041, and each group, consisting of at least seven voters of the state who are registered as affiliated with the Democratic Party, proposing the selection of delegates expressing no preference for a candidate for President, hereinafter referred to as an "uncommitted delegation." The additional candidates who qualify under this article shall hereinafter be referred to as unselected candidates.

6061. Any unselected candidate or uncommitted delegation desiring to be placed on the presidential primary ballot shall have nomination papers circulated on behalf of the candidacy. In order to qualify for placement on the presidential primary ballot, the candidate's or uncommitted delegation's nomination papers shall be signed by voters registered as affiliated with the Democratic Party equal in number to not less than 1 percent or 500, whichever is fewer, in each congressional district of the number of persons registered as members of the Democratic Party in the report of registration issued by the Secretary of State on the 135th day preceding the presidential primary election.

The unselected candidates or uncommitted delegations shall meet the statewide signature requirements from each congressional district in order to be eligible for placement on the ballot in any one congressional district.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6061. Any unselected candidate or uncommitted delegation desiring to be placed on the presidential primary ballot shall have nomination papers circulated on behalf of the candidacy. In order to qualify for placement on the presidential primary ballot, the candidate's or uncommitted delegation's nomination papers shall be signed by voters registered as affiliated with the Democratic Party equal in number to not less than 1 percent or 500, whichever is fewer, in each congressional district of the number of persons registered as members of the Democratic Party in the report of registration issued by the Secretary of State in January of the presidential primary year.

The unselected candidates or uncommitted delegations shall meet the statewide signature requirements from each congressional district in order to be eligible for placement on the ballot in any one congressional district.

This section shall become operative on January 1, 1998.

Article 5. Steering Committees

6080. Each selected candidate and each candidate who seeks to qualify under Article 4 (commencing with Section 6060) of this chapter and each group proposing an uncommitted delegation shall appoint a steering committee of seven members and shall appoint one of the members to serve as the chairperson.

6081. The chairperson of a steering committee, at least 85 days prior to the presidential primary, shall file with the Secretary of State a statement containing the names and addresses of the members of the steering committee.

6082. Each steering committee shall be responsible for the circulation of nomination papers of candidates who seek to qualify under Article 4 (commencing with Section 6060) and groups proposing uncommitted delegations, including the appointment of verification deputies. Each steering committee shall appoint a caucus organizer for each congressional district and shall perform the duties required of it by this chapter.

6083. All persons who intend to seek election as delegates or alternate delegates during any step in the delegate selection process shall file a declaration of candidate for delegate with the Democratic State Central Committee during the time periods designated by the committee.

A candidate for district-level delegate shall reside in the congressional district from which he or she wishes to be selected as a delegate, shall be a member of the Democratic Party, and shall sign a declaration pledging his or her support for that presidential candidate or uncommitted delegation before he or she becomes a bona fide candidate for delegate. The pledge of support for a presidential candidate shall be binding on the delegate until the presidential candidate agrees to release the delegate from his or her pledge.

The Democratic State Central Committee shall make these

declarations available to the steering committee of each presidential candidate or uncommitted delegation.

The pledge of support shall be in substantially the following form:

Declaration of Candidate for Delegate

I, _____, reside and am registered to vote as a Democrat at No. _____ Street, in the City (or Town) of _____, County of _____, in the _____ congressional district, State of California.

I pledge my support if elected as a delegate to the _____ Democratic National Convention to _____. I understand that California law requires me to support this candidate at the Convention on all ballots until the candidate agrees to release me from my pledge.

(This statement of preference shall be omitted where the candidate for delegate is part of a group expressing no preference as to a particular candidate.)

I express no preference as to a particular candidate. The chairperson of my group is _____. (This statement shall be omitted where the candidate for delegate is part of a group preferring a particular candidate.)

As a delegate, I shall, in all good conscience, reflect the sentiments of those who elected me.

Date _____ Place _____

Signed _____

6084. On or before the 50th day preceding the presidential primary, the Democratic State Central Committee shall transmit to the steering committee of each presidential candidate and uncommitted delegation a list of all persons who have filed a declaration of candidate for delegate pledged to that presidential candidate or uncommitted delegation.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6084. On or before the third Tuesday in April, the Democratic State Central Committee shall transmit to the steering committee of each presidential candidate and uncommitted delegation a list of all persons who have filed a declaration of candidate for delegate pledged to that presidential candidate or uncommitted delegation.

This section shall become operative on January 1, 1998.

6085. Delegate candidates shall be considered bona fide supporters of the presidential candidate or uncommitted delegation that they have pledged to support, unless the steering committee states otherwise in writing to the Democratic State Central Committee by the time specified in the delegate selection and affirmative action plan.

Delegate candidates removed from the list of bona fide supporters

by the steering committee of a presidential candidate or uncommitted delegation may not be voted on as a delegate candidate or alternate delegate candidate pledged to that presidential candidate or uncommitted delegation.

Except as provided in this section, no delegate candidate may be removed from the list of bona fide supporters unless at least three names remain for each delegate or alternate delegate allocated to each congressional district pursuant to Section 6023.

6086. On or before the 40th day preceding the presidential primary election, at 3 p.m., the caucus chairperson in each congressional district shall convene a caucus for the purpose of electing potential delegates and alternate delegates. The steering committee of each candidate or uncommitted delegation shall have sole authority to establish rules and procedures, including the naming of caucus chairpersons, by which the caucuses of that candidate or uncommitted delegation shall be conducted. The rules and procedures shall be uniform statewide, and in compliance with the Democratic State Central Committee's delegate selection and affirmative action plan. Each caucus shall elect a slate of delegate nominees in each congressional district pursuant to Article 2 (commencing with Section 6020), ranked in the manner specified by this section. The slate shall be transmitted to the steering committee of each candidate and uncommitted delegation.

Each participant at each caucus shall reside in and be a registered Democrat of the congressional district of the caucus he or she attends and each shall sign a statement of support for that presidential candidate or uncommitted delegation. Within five days after the convening of the caucus, the steering committee of each candidate or uncommitted delegation shall rank the delegate candidates from the slate of delegate candidates provided by each caucus. The delegate candidate receiving the greatest number of votes shall be ranked as the first delegate candidate. The delegate candidate of the opposite sex as the first ranked delegate candidate receiving the greatest number of votes shall be ranked as the second delegate candidate. The remaining delegate candidates to be ranked shall continue to be alternated between sexes in the order of vote totals. Immediately, thereafter, the chairperson of a steering committee shall file with the Secretary of State a statement containing the names of delegate candidates in ranked order from each congressional district. In all cases, the slate for each congressional district shall be equal to the number of delegates and alternate delegates allotted to each congressional district pursuant to Section 6023.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6086. On the first Sunday in May of the presidential primary year, at 3 p.m., the caucus chairperson in each congressional district shall convene a caucus for the purpose of electing potential delegates and

alternate delegates. The steering committee of each candidate or uncommitted delegation shall have sole authority to establish rules and procedures, including the naming of caucus chairpersons, by which the caucuses of that candidate or uncommitted delegation shall be conducted. The rules and procedures shall be uniform statewide, and in compliance with the Democratic State Central Committee's delegate selection and affirmative action plan. Each caucus shall elect a slate of delegate nominees in each congressional district pursuant to Article 2 (commencing with Section 6020), ranked in the manner specified by this section. The slate shall be transmitted to the steering committee of each candidate and uncommitted delegation.

Each participant at each caucus shall reside in and be a registered Democrat of the congressional district of the caucus he or she attends and each shall sign a statement of support for that presidential candidate or uncommitted delegation. Within five days after the convening of the caucus, the steering committee of each candidate or uncommitted delegation shall rank the delegate candidates from the slate of delegate candidates provided by each caucus. The delegate candidate receiving the greatest number of votes shall be ranked as the first delegate candidate. The delegate candidate of the opposite sex as the first ranked delegate candidate receiving the greatest number of votes shall be ranked as the second delegate candidate. The remaining delegate candidates to be ranked shall continue to be alternated between sexes in the order of vote totals. Immediately, thereafter, the chairperson of a steering committee shall file with the Secretary of State a statement containing the names of delegate candidates in ranked order from each congressional district. In all cases, the slate for each congressional district shall be equal to the number of delegates and alternate delegates allotted to each congressional district pursuant to Section 6023.

This section shall become operative on January 1, 1998.

6087. Presidential candidates and uncommitted delegations or their steering committees shall take steps to ensure public participation in the delegate selection process, which shall include, but is not limited to, the convening of congressional district caucuses to select delegate candidates, the distribution of information to statewide and community press, informing Democratic electors of the procedures for delegate candidacy and additional steps necessary to achieve the representational goals established in the California Democratic Party's Affirmative Action Plan.

Article 6. Nomination Papers

6100. This article shall govern the circulation of nomination papers to qualify unselected candidates and uncommitted delegations for placement on the presidential primary ballot.

6101. Nomination papers to be circulated pursuant to Section

6061 shall be prepared, circulated, signed, and verified and shall be left for examination with the county elections official of the county in which they are circulated at least 75 days prior to the presidential primary election.

6102. Upon the filing of nomination papers pursuant to Section 6061 signed by the required number of voters, the candidate or uncommitted delegation named in the papers shall be eligible to select a delegation for placement on the ballot which shall be voted upon in the presidential primary election.

6103. Upon receipt of a sufficient number of signatures for the presidential primary ballot, the Secretary of State shall notify the chairperson of the steering committee of each unselected candidate or uncommitted delegation of that fact and advise him or her that no more signatures will be received.

6104. Each signer of a nomination paper may sign only one paper. Each signer shall print his or her name, indicate his or her place of residence, and declare his or her intention to support the candidate or delegation named on the nomination paper.

6105. Any nomination paper may be presented in sections. Each section shall contain the name of the candidate or chairperson of the steering committee in the case of uncommitted delegations. Each section shall bear the name of the county in which it is circulated. Only voters of the county registered as intending to affiliate with the Democratic Party are competent to sign.

6106. Each section shall be prepared with the lines for signatures numbered, and shall have attached the affidavit of the circulator who obtained signatures to it, stating that all the signatures to the attached section were made in his or her presence, and that to the best of his or her knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be. No other affidavit is required. The affidavit of any circulator shall be verified free of charge by any officer authorized to administer oaths.

6107. A verified nomination paper is prima facie evidence that the signatures are genuine and that the persons signing it are voters, until it is otherwise proved by comparison of the signatures with the affidavits of registration in the office of the county elections official.

6108. The nomination paper for the presidential primary ballot shall be in substantially the following form:

SECTION OF NOMINATION PAPER SIGNED BY VOTER ON BEHALF OF A PRESIDENTIAL CANDIDATE OR UNCOMMITTED DELEGATION

Section _____ Page _____

County of _____. Nomination paper of a candidate or uncommitted delegation for the presidential primary ballot.

State of California
County of _____ } ss.

SIGNER'S STATEMENT

I, the undersigned, am a voter of the County of _____, State of California, and am registered as intending to affiliate with the Democratic Party. I hereby nominate _____ for the presidential primary to be held on the _____ day of _____, 19__. I have not signed the nomination paper of any other candidate or uncommitted delegation, and I further declare that I intend to support the candidate or uncommitted delegation named herein.

Number	Printed name	Signature	Residence
1			
2			
3			
etc.			

CIRCULATOR'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of a candidate or uncommitted delegation for the presidential primary ballot named in the signer's statement above; that all the signatures on this section of the nomination paper numbered from 1 to ____, inclusive, were made in my presence, and that to the best of my knowledge and belief each signature is the genuine signature of the person whose name it purports to be. The signatures were obtained between _____ 19__ and _____ 19__.

(Signed) _____
Circulator

Subscribed and sworn to before me this _____ day of _____, 19__.

(SEAL) _____
Notary Public (or other official)

Article 7. Circulators

6120. Each steering committee organized pursuant to this chapter, or its duly authorized representatives, may arrange for the appointment of circulators to serve within the county in which the circulators reside in securing signatures to the nomination paper

proposed by the steering committee. The circulators thus appointed are the duly authorized circulators to secure signatures to the nomination paper in that county. The form on which the circulators are appointed shall be filed with the county elections official of the county in which the circulators reside, at or before the time the nomination paper is left with the county elections official for examination. Additional circulators may be appointed in the same manner as the original circulators were appointed.

6121. The circulators may be appointed by the steering committee, or its duly authorized representatives, on a form which shall be substantially as follows:

APPOINTMENT OF CIRCULATORS BY STEERING COMMITTEE, OR ITS DULY AUTHORIZED REPRESENTATIVES

We, the undersigned, members of the _____ steering committee (or duly authorized representatives of the _____ steering committee), do hereby appoint the following voters of the County of _____ as circulators to obtain signatures, in that county, to nomination papers for the qualification of a candidate or uncommitted delegation for presidential primary ballot.

CIRCULATORS

Name	Residence
_____	_____
_____	_____
_____	_____
etc.	etc.

COMMITTEE OR ITS DULY AUTHORIZED REPRESENTATIVES

(Signed)

Name	Residence
_____	_____
_____	_____
_____	_____
etc.	etc.

Filed in the office of the County Elections Official of _____ County, this _____ day of _____, 19__.

_____, County Elections Official

By _____, Deputy

6122. Circulators may obtain signatures to the nomination paper for which they were appointed, at any time not before 120 days nor after 75 days prior to the presidential primary election.

This section shall remain in effect only until January 1, 1998, and

as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6122. Circulators may obtain signatures to the nomination paper for which they were appointed, at any time not before February 1 nor after 75 days prior to the presidential primary election.

This section shall become operative on January 1, 1998.

6123. A county elections official or his or her deputy may not be appointed as a circulator and circulators may not obtain signatures within 100 feet of any election booth or polling place.

Article 8. Arrangement and Examination of Nomination Papers

6140. Each section of a nomination paper, after being verified, shall be returned by the circulator who circulated it to the steering committee, or to its duly authorized representatives, by whom the circulator was appointed. All the sections circulated in any county shall be collected by the steering committee, or its duly authorized representatives, and they shall arrange and leave the sections with the county elections official for examination.

6141. Prior to filing, the sections of a nomination paper shall be numbered in order.

6142. Nomination papers, properly assembled, may be consolidated and fastened together by counties, but nomination papers signed by voters in different counties shall not be fastened together.

6143. The county elections official shall examine all nomination papers left with him or her for examination and shall disregard and mark "not sufficient" the name of any voter of his or her county which does not appear in the same handwriting on an affidavit of registration in the office of the county elections official. The county elections official shall also disregard and mark "not sufficient" the name of any voter of his or her county who has not stated his or her intention to affiliate with the Democratic Party.

6144. Within five days after any nomination papers are left with him or her for examination, the county elections official shall:

(a) Examine and affix to them a certificate reciting that he or she has examined them and stating the number of names which have not been marked "not sufficient."

(b) Transmit the papers with the certificate of examination to the Secretary of State, who shall file the papers.

6145. The county elections official's certificate to nomination papers shall be in substantially the following form:

Certificate of County Elections Official to Nomination Papers

To the Secretary of State:

I, Elections Official of the County of _____, hereby certify that I have examined the nomination papers to which this certificate is attached, of the candidate or uncommitted delegation, as the case may be, for purposes of qualifying for placement on the ballot at the ensuing presidential primary, that the number of names which I have not marked "not sufficient" is _____.

Dated this _____ day of _____, 19__.

_____, County Elections Official

(SEAL) By _____, Deputy

6146. No filing fee shall be required from any person in order to file nomination papers.

Article 9. Notification of Qualification from Secretary of State

6160. At least 64 days before a presidential primary, the Secretary of State shall notify each steering committee whether or not it has qualified a candidate or uncommitted delegation for placement on the ballot pursuant to Section 6060.

Article 10. Certified List of Candidates and Uncommitted Delegations, Notice of Election

6180. At least 59 days before a presidential primary election, the Secretary of State shall transmit to each county elections official a certified list containing the name of each candidate who is entitled to be voted for on the ballot at the presidential primary and the name of each chairperson of a steering committee of an uncommitted delegation who is to be voted for on the same ballot.

If no uncommitted delegation has qualified pursuant to Article 4 (commencing with Section 6060), the Secretary of State shall inform the county elections officials to provide for an uncommitted delegate space on the ballot.

The certified list shall be in substantially the following form:

Certified List of Presidential Candidates and Uncommitted Delegations

To the County Elections Official of _____ County:

I, _____, Secretary of State, do hereby certify that the following list contains the name of each person who is entitled to be voted for as a candidate of the Democratic Party at the presidential primary election to be held on the _____ day of March, 19__, and the name of each chairperson of a steering committee of an uncommitted delegation which is entitled to be voted for on the ballot.

List of Presidential Candidates and Uncommitted Delegations

Linda Adams
Joseph Black
John Reardon
Unpledged delegation
Paul Minor,
Chairperson

Dated at Sacramento, California, this _____ day of _____, 19__.

(SEAL) Secretary of State

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date. Notice of Election

6180. At least 59 days before a presidential primary election, the Secretary of State shall transmit to each county elections official a certified list containing the name of each candidate who is entitled to be voted for on the ballot at the presidential primary, and the name of each chairperson of a steering committee of an uncommitted delegation who is to be voted for on the same ballot.

If no uncommitted delegation has qualified pursuant to Article 4 (commencing with Section 6060), the Secretary of State shall inform the county elections officials to provide for an uncommitted delegate space on the ballot.

The certified list shall be in substantially the following form:

Certified List of Presidential Candidates and Uncommitted Delegations

To the County Elections Official of _____ County:

I, _____, Secretary of State, do hereby certify that the following list contains the name of each person who is entitled to be voted for as a candidate of the Democratic Party at the presidential primary election to be held on the _____ day of June, 19__, and the name of each chairperson of a steering committee of an uncommitted delegation which is entitled to be voted for on the ballot.

List of Presidential Candidates and Uncommitted Delegations

Linda Adams
Joseph Black
John Reardon
Unpledged delegation
Paul Minor,
Chairperson

Dated at Sacramento, California, this _____ day of _____, 19__.

(SEAL) Secretary of State

This section shall become operative on January 1, 1998.

6181. Immediately after the county elections official receives the certified list of delegates pledged to presidential candidates and uncommitted delegations from the Secretary of State, he or she shall enclose a copy of the appropriate list for each congressional district with each absentee ballot mailed for the primary election in that congressional district. The county elections official shall also post a copy of the list at each polling place and provide a copy of the list to each Democratic voter with their presidential primary election ballot on election day.

Article 11. Selection of Delegates and Alternates

6200. Notwithstanding any other provision of this chapter, this article governs the selection of district level delegates and alternates, unpledged delegates, pledged party leaders and elected official delegates, and at-large delegates and alternates.

6201. (a) District level delegate positions shall be allocated to presidential preferences through a primary proportional representation system.

(b) The 227 district-level delegates and 38 alternates shall be elected by preprimary caucuses to slate delegates followed by a presidential preference primary.

(1) The preprimary caucuses shall be conducted on Sunday, April 26, 1992, at 3 p.m.

(2) The presidential preference primary shall be conducted on Tuesday, June 2, 1992.

(c) The 227 delegates and 38 alternates shall be apportioned to districts as follows:

CD #1— #_____ delegates, #_____ alternates
CD #2— #_____ delegates, #_____ alternates
CD #3— #_____ delegates, #_____ alternates
CD #4— #_____ delegates, #_____ alternates

This apportionment shall be based on a formula giving equal weight to the average vote for the Democratic candidates in the 1984 and 1988 presidential elections and to Democratic Party registration.

Inasmuch as California anticipates the addition of seven new congressional districts, this apportionment shall be recomputed upon the establishment of the new districts. In the event the Legislature fails to enact new districts, the districts existing on the date of adoption of this plan shall be used.

(d) An individual may qualify as a candidate for district-level

delegate or alternate to the 1992 Democratic National Convention by filing a statement of candidacy and pledge of support with the state chair at the party office at 2424 K Street, Sacramento, California 95816. Statements can be requested from the state party beginning Monday, February 3, 1992. Candidacy statements can be returned beginning March 2, 1992, and must be postmarked no later than 5 p.m., Thursday, April 9, 1992.

(1) All delegate candidates shall be identified as to presidential preference, uncommitted or unpledged status at all levels which determine presidential preference.

(2) Candidates for delegate or alternate positions shall file a statement of candidacy designating their presidential or uncommitted preference and a signed pledge of support for the presidential candidate (including uncommitted status) with the state party by 5 p.m., April 9, 1992.

(e) The California primary election is a "binding" primary. Accordingly, delegate and alternate positions shall be allocated so as to fairly reflect the expressed presidential or uncommitted status of the primary voters in each district. Therefore, the national convention delegates elected at the district level shall be allocated in proportion to the percentage of the primary vote won in that district by each preference, except that preferences falling below a 15-percent threshold shall not be awarded any delegates or alternates.

(f) If no presidential preference reaches a 15-percent threshold, the threshold shall be the percentage of the vote received at each level of the delegate selection process by the front-runner minus 10 percent.

(g) Presidential candidates shall certify their authorized representatives to the state party chair no later than 5 p.m., March 9, 1992. The state party chair shall convey to the presidential candidate, or that candidate's authorized representative or representatives, not later than Tuesday, April 14, 1992, at 5 p.m., a list of all persons who have filed for delegate or alternate pledged to that presidential candidate. Each presidential candidate, or that candidate's authorized representative or representatives, shall file with the state party chair by Tuesday, April 21, 1992, at 5 p.m., a list of all the candidates he or she has approved, provided that approval is given to at least three times the number of candidates for delegate and three times the number of candidates for alternates to be selected. Failure to respond shall be deemed approval of all delegate and alternate candidates submitted to the presidential candidate unless the presidential candidate, or the candidate's authorized representative or representatives, signifies otherwise in writing to the state party chair no later than Tuesday, April 21, 1992, at 5 p.m.

(h) On Sunday, April 26, 1992, candidate and uncommitted caucuses shall be held to elect a slate of potential delegates equal to at least the number of delegates plus alternates allocated to the congressional district. The California delegation shall be equally

divided between delegate men and delegate women, and alternate men and alternate women. These goals apply to the California delegation as a whole. Delegates and alternates shall be considered separate groups for purposes of achieving equal division.

Provisions for achieving equal division at the district level shall be as follows: Each candidate and uncommitted caucus shall elect a slate of potential delegates equal to at least the number of delegates plus alternates allocated to that congressional district. Potential delegates shall be ranked on the basis of votes received at the caucus, alternating by sex, with the sex of the top ranked potential delegate determined by the top vote getter. After the delegates are selected, the alternates shall then be selected, using the next highest vote getters in the process described above. Following the primary, delegate and alternate positions allocated to a presidential candidate or uncommitted delegation shall be filled from the list of ranked potential delegates in the order in which they are ranked.

(i) The State Democratic Chair shall certify in writing to the Secretary of the Democratic National Committee (DNC) the election of the state's district level delegates and alternates to the Democratic National Convention within three days after their election.

6202. (a) The following individuals shall constitute the unpledged delegate positions:

(1) Members of the DNC who legally reside in the state.

(2) The Governor if he or she is a Democrat.

(3) All former Democratic Presidents, Democratic Vice Presidents, Democratic Majority Leaders of the United States Senate, and Democratic Speakers of the United States House of Representatives who legally reside in the state.

(4) The delegates chosen from California by the Democratic Caucus of the United States House of Representatives and the Democratic Conference of the United States Senate.

(5) Five add-on delegates.

(b) The procedures to be used in selecting the five add-on unpledged delegates shall be as follows:

(1) The add-on delegates shall be nominated by the state party chair and elected at the meeting of district level delegates on Saturday, June 13, 1992. These delegates shall be selected prior to the selection of the pledged party and elected official delegates.

(2) The equal division and affirmative action provisions of Rule 9A of the Delegate Selection Rules for the 1992 Democratic National Convention apply to the selection of these add-on unpledged delegates.

(3) The list from which the selecting body chooses the add-on unpledged delegates shall, at a minimum, contain three names for every unpledged add-on position to be filled.

(c) The process for certification of the unpledged delegates is as follows:

(1) Members of the DNC, the Governor if he or she is a Democrat,

and distinguished former elected leaders.

(A) Not later than March 1, 1992, the Secretary of the DNC shall officially confirm to the state party chair the following unpledged delegates who legally reside in California:

(i) The individuals recognized as members of the DNC.

(ii) The Governor if he or she is a Democrat.

(iii) All former Democratic Presidents, Democratic Vice Presidents, Democratic Majority Leaders of the United States Senate, and Democratic Speakers of the United States House of Representatives.

(B) This official confirmation by the secretary shall constitute verification of the unpledged delegates from the categories indicated above. In cases where California DNC membership changes following the secretary's official confirmation, but prior to the commencement of the 1992 Democratic National Convention, acknowledgement by the Secretary of the DNC of member certification shall constitute verification of the corresponding change of unpledged delegates.

(2) Members of Congress.

(A) The delegates chosen by the Democratic Caucus of the United States House of Representatives and the Democratic Conference of the United States Senate shall become part of the California unpledged delegation. The total number selected shall be added to the total number of unpledged delegates from this state.

(B) The Secretary of the DNC shall officially notify the State Democratic Chair of any name or names of delegates from California that are selected by the Democratic Caucus of the United States House of Representatives and the Democratic Conference of the United States Senate.

(3) Add-on unpledged delegates, selected pursuant to the Call for the 1992 Democratic National Convention, shall be certified in writing to the Secretary of the DNC within three days after their selection.

6203. (a) California is allotted 45 pledged party leader and elected official delegates.

(b) Individuals shall be eligible for the pledged party leader and elected official positions according to the following priority: big city mayors and statewide elected officials (to be given equal consideration), state legislative leaders, state legislators, Members of Congress not previously selected, and other state, county, and local elected officials and party leaders.

(c) These delegates shall be selected by a committee consisting of all the district-level delegates.

(d) Selection of these delegates shall occur on Saturday, June 13, 1992, at a site and time to be determined by the state party chair. The selection of these delegates shall be after the election of district delegates and alternates and the unpledged add-on delegates and prior to the selection of at-large delegates and alternates.

(e) An individual may qualify as a candidate for a position as a

pledged party leader and elected official delegate by filing a statement of candidacy and pledge of support with the state party chair that includes all the provisions included in the statement of candidacy and pledge of support required of district level candidates. An individual may or may not previously have filed a statement of candidacy and still be eligible to file under this category. Statements shall be available at the state party beginning March 23, 1992. Statements shall be accepted beginning April 20, 1992, and ending June 4, 1992, at 5 p.m.

(f) These pledged party leader and elected official slots shall be allocated among presidential preferences on the same basis as the at-large delegates.

(g) Delegate candidates shall be identified as to presidential or uncommitted status at the pledged party and elected official level. If persons eligible for pledged party and elected official delegate positions have not made known their presidential preference as candidates for district level or at-large delegate positions, their preference shall be ascertained through the aforementioned required qualification statement.

(h) The state party chair shall convey to the presidential candidate, or that candidate's authorized representative or representatives, not later than June 5, 1992, a list of all persons who have filed for a party and elected official delegate pledged to that presidential candidate. Each presidential candidate, or that candidate's authorized representative or representatives, shall then file with the state party chair, by June 10, 1992, a list of all the candidates he or she has approved, provided that approval is given to at least three times the number of candidates for delegate to be selected. Failure to respond shall be deemed approval of all delegate candidates submitted to the presidential candidate unless the presidential candidate, or the candidate's authorized representative or representatives, signifies otherwise in writing to the state party chair no later than 5 p.m. on June 10, 1992.

(i) Alternates are not selected at the pledged party leader and elected official level. These alternates are combined with the at-large alternates and selected as one unit.

(j) The state party chair shall certify in writing to the Secretary of the DNC the election of the state's pledged party leader and elected official delegates and alternates to the Democratic National Convention within three days after their election.

6204. (a) The State of California is allotted 76 at-large delegates and 21 at-large alternates.

(b) These delegates and alternates shall be selected by a committee consisting of all the district-level delegates on Saturday, June 13, 1992. The selection shall occur after all unpledged delegates and pledged party leader and elected official delegates have been selected.

(c) At-large delegate and alternate positions shall be allocated among presidential preferences according to the statewide primary

vote. Preferences which have not attained a 15-percent threshold on a statewide basis shall not be entitled to any at-large delegates.

If a given presidential preference is entitled to one or more delegate positions but would not otherwise be entitled to an alternate position, that preference shall be allotted one at-large alternate position.

(d) In the selection of the at-large delegation, priority of consideration shall be given to African Americans, Hispanics, Native Americans, Asian/Pacific Americans, the disabled, and women. The election of at-large delegates and alternates shall be used, if necessary, to achieve the equal division of positions between men and women, and may be used to achieve the representation goals established in the State Democratic Party's affirmative action plan. Delegates and alternates are to be considered separate groups for this purpose.

(e) Persons desiring to seek these at-large delegate or alternate positions may file a statement of candidacy designating their presidential or uncommitted preference and a signed pledge of support for the presidential candidates (including uncommitted status) with the state party beginning Monday, April 20, 1992, and ending at 5 p.m., June 4, 1992. The state party chair shall convey to the presidential candidate, or that candidate's authorized representative or representatives, not later than June 5, 1992, a list of all persons who have filed for delegate or alternate pledged to that presidential candidate. Each presidential candidate, or that candidate's authorized representative or representatives, shall then file with the state party chair, by June 10, 1992, a list of all the candidates he or she has approved, provided that approval is given to at least three times the number of candidates for delegate and three times the number of candidates for alternate to be selected. Failure to respond shall be deemed approval of all delegate candidates submitted to the presidential candidate unless the presidential candidate, or the candidate's authorized representative or representatives, signifies otherwise in writing to the state party chair no later than 5 p.m., June 10, 1992.

(f) The statement of candidacy for at-large delegates and for at-large alternates shall be the same. After the at-large delegates are elected by the district level delegates, those persons not chosen shall then be considered candidates for at-large alternate positions unless they specify otherwise when filing.

(g) If a presidential candidate is no longer a candidate at the time of selection of the at-large delegates, those at-large slots that would have been allocated to the candidate shall be proportionally divided among the remaining preferences entitled to an allocation.

(h) The state party chair shall certify in writing to the Secretary of the DNC the election of the state's at-large delegates and alternates to the Democratic National Convention within three days after their election.

Article 12. Canvass of Returns and Certificate of Selection

6220. The Secretary of State shall, not later than the 24th day after the election, compile and file in his or her office a statement of the canvassed returns filed with him or her by the county elections officials.

The compiled statement shall show for each candidate and uncommitted delegation the total of the votes received, and the votes received in each county.

6221. The Secretary of State shall issue a certification of delegate to each person selected as a delegate or an alternate delegate to the Democratic Party National Convention pursuant to Section 6200. The delegates certified shall be the final delegates as filed pursuant to Section 6203 and determined by the official canvass as reported pursuant to Section 15310.

6222. No fee shall be required of any person as a condition of receiving a certificate of selection as a delegate or an alternate.

Article 13. Write-in Candidates

6240. Notwithstanding any other provision of law, a space shall be provided on the presidential primary ballot for a voter to write in the name of a delegate nominee for election as an unpledged delegate.

6241. Any person who believes his or her name may be used as a write-in candidate for unpledged delegate shall, not later than 21 days before the primary election, file for endorsement of his or her write-in candidacy with the Secretary of State, or no votes shall be counted for him or her.

CHAPTER 2. REPUBLICAN PRESIDENTIAL PRIMARY

Article 1. General Provisions

6300. This chapter shall be applicable only to the presidential primary ballot of the Republican Party, and qualified parties for which no other provisions apply.

Article 2. Number and Certification of Delegates

6320. The chairperson of the state central committee shall notify the Secretary of State on or before the 120th day preceding the presidential primary as to the number of delegates to represent the state in the next national convention of his or her party.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6320. The chairperson of the state central committee shall notify the Secretary of State on or before the first day of February immediately preceding the presidential primary as to the number of

delegates to represent the state in the next national convention of his or her party.

This section shall become operative on January 1, 1998.

6321. The notification of the number of delegates shall be in substantially the following form:

STATEMENT OF NUMBER OF DELEGATES TO THE REPUBLICAN PARTY NATIONAL CONVENTION

To the Secretary of State
Sacramento, California

You are hereby notified that the number of delegates to represent the State of California in the next national convention of the Republican Party is _____.

Dated this _____ day of _____, 19__

_____

Chairperson of the State Central Committee of the Republican Party.

6322. If the chairperson of the state central committee fails to file a notice as to the number of delegates, the Secretary of State shall ascertain the number from the call for the national convention issued by the national committee of the party.

6323. The Secretary of State shall, on or before the 110th day preceding the presidential primary, certify to the county elections official of each county the number of delegates to be elected by the Republican Party.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6323. The Secretary of State shall, on or before the 10th day of February of the year of the presidential primary, certify to the county elections official of each county the number of delegates to be elected by the Republican Party.

This section shall become operative on January 1, 1998.

Article 3. Selection of Candidates by the Secretary of State

6340. The Secretary of State shall place the name of a candidate upon the Republican presidential primary ballot when the Secretary of State has determined that the candidate is generally recognized throughout the United States or California as a candidate for the nomination of the Republican Party for President of the United States.

On or before the 120th day preceding a presidential primary election the Secretary of State shall publicly announce and distribute to the news media for publication a list of the candidates he or she

intends to place on the ballot at the following presidential primary election. Following this announcement he or she may add candidates to his or her selection, but he or she may not delete any candidate whose name appears on the announced list.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6340. The Secretary of State shall place the name of a candidate upon the Republican presidential primary ballot when the Secretary of State has determined that the candidate is generally recognized throughout the United States or California as a candidate for the nomination of the Republican Party for President of the United States.

On or before February 1 immediately preceding a presidential primary election the Secretary of State shall publicly announce and distribute to the news media for publication a list of the candidates he or she intends to place on the ballot at the following presidential primary election. Following this announcement he or she may add candidates to his or her selection, but he or she may not delete any candidate whose name appears on the announced list.

This section shall become operative on January 1, 1998.

6341. When the Secretary of State decides to place the name of a candidate on the ballot pursuant to Section 6340, he or she shall notify the candidate that his or her name will appear on the ballot of this state in the presidential primary election.

The secretary shall also notify the candidate that he or she may withdraw his or her name from the ballot by filing with the Secretary of State an affidavit pursuant to Section 6342 no later than the 64th day before that election.

6342. If a selected candidate or a nonselected candidate files with the Secretary of State, no later than the 64th day before the presidential primary, an affidavit stating without qualification that he or she is not now a candidate for the office of President of the United States at the forthcoming presidential primary election, his or her name shall be omitted from the list of names certified by the Secretary of State to the county elections officials for the ballot and his or her name shall not appear on the presidential primary ballot.

6343. Any unselected candidate desiring to have his or her name placed on the presidential primary ballot shall have nomination papers circulated in his or her behalf. In order to qualify his or her name for placement on the presidential primary ballot, the candidate's nomination papers shall be signed by voters registered as affiliated with the Republican Party equal in number to not less than 1 percent of the number of persons registered as members of the Republican Party, as reflected in the report of registration issued by the Secretary of State on the 135th day preceding the presidential primary election.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is

enacted before January 1, 1998, deletes or extends that date.

6343. Any unselected candidate desiring to have his or her name placed on the presidential primary ballot shall have nomination papers circulated in his or her behalf. In order to qualify his or her name for placement on the presidential primary ballot, the candidate's nomination papers shall be signed by voters registered as affiliated with the Republican Party equal in number to not less than 1 percent of the number of persons registered as members of the Republican Party, as reflected in the report of registration issued by the Secretary of State in January of the year of the presidential primary election.

This section shall become operative on January 1, 1998.

Article 4. Nomination Papers

6360. Nomination papers properly prepared, circulated, signed and verified shall be left, for examination, with the county elections official of the county in which they are circulated, at least 74 days prior to the presidential primary.

6361. Each signer of a nomination paper may sign only one paper. He or she shall declare his or her intention to support the candidate for nomination, add his or her place of residence, and give his or her street and number if any.

6362. Any nomination paper may be presented in sections. Each section shall contain the names of the candidate. Each section shall bear the name of the county in which it is circulated. Only voters of the county registered as intending to affiliate with the political party by which the nominations are to be made are competent to sign.

6363. Each section shall be prepared with the lines for signatures numbered, and shall have attached the affidavit of the circulator who obtained signatures to it, stating that all the signatures to the attached section were made in his or her presence, and that to the best of his or her knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be. No other affidavit is required. The affidavit of any circulator shall be verified free of charge by any officer authorized to administer oaths.

6364. A verified nomination paper is prima facie evidence that the signatures are genuine and that the persons signing it are voters, until it is otherwise proved by comparison of the signatures with the affidavits of registration in the office of the county elections official.

6365. The nomination paper for a candidate shall be in substantially the following form:

SECTION OF NOMINATION PAPER SIGNED BY VOTER ON BEHALF OF CANDIDATE

Section _____ Page _____

County of _____. Nomination paper for _____ as presidential nominee of the Republican Party.

State of California
County of _____ } ss.

SIGNER'S STATEMENT

I, the undersigned, am a voter of the County of _____, State of California, and am registered as intending to affiliate with the Republican Party. I have not signed the nomination paper of any other candidates for the same office, and further declare that I intend to support the nomination of the candidate named herein at the Republican Party presidential primary to be held on the _____ day of _____, 19__.

Number	Signature	Printed name	Residence
1			
2			
3			
etc.			

CIRCULATOR'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of the candidate named in the signer's statement above as candidate for nomination by the Republican Party at its presidential primary election; that all the signatures on this section of the nomination paper numbered from 1 to _____, inclusive, were made in my presence, that the signatures were obtained between _____ 19__ and _____ 19__, and that to the best of my knowledge and belief each signature is the genuine signature of the person whose name it purports to be.

(Signed) _____
Circulator

Subscribed and sworn to before me this _____ day of _____, 19__.

_____
Notary Public (or other official)

Article 5. Circulators

6380. The candidate or his or her designee may arrange for the appointment of circulators to serve within the county in which the circulators reside in securing signatures to the nomination paper of the candidate. The circulators thus appointed are the duly authorized circulators to secure signatures to the nomination paper of the candidate in that county. The form on which the circulators are appointed shall be filed with the county elections official of the county in which the circulators reside, at or before the time the nomination paper of the candidate is left with the county elections official for examination. Additional circulators may be appointed in the same manner as the original circulators were appointed.

6381. The circulators may be appointed by the candidate or his or her designee on a form which shall be substantially as follows:

APPOINTMENT OF CIRCULATORS BY CANDIDATE OR HIS OR HER DESIGNEE

I, the undersigned candidate or designee, do hereby appoint the following voters of the County of _____ as circulators to obtain signatures, in that county, to nomination papers for _____ as a candidate in the Republican Party presidential primary, to be held the _____ day of _____, 19__.

CIRCULATORS

Name	Residence
_____	_____
_____	_____
_____	_____
etc.	etc.

CANDIDATE OR HIS OR HER DESIGNEE

(Signed)

Name Residence

Filed in the office of the County Elections Official of _____ County, this _____ day of _____, 19__.

_____, County Elections Official

By _____, Deputy

6382. Circulators may obtain signatures to the nomination paper of a candidate for whom they were appointed, at any time not more than 104 nor less than 74 days prior to the presidential primary.

6383. The candidate or the candidate's designee shall not appoint a county elections official or deputy county elections official as a circulator. Circulators may not obtain signatures within 100 feet of any election booth or polling place.

Article 6. Arrangement and Examination of Nomination Papers

6400. Each section of a nomination paper shall be returned by the circulator who circulated it to the candidate or his or her designee by whom the circulator was appointed. All the sections circulated in any county shall be collected by the candidate or his or her designee and he or she shall arrange and leave the sections with the county elections official for examination.

6401. Prior to filing, the sections of a nomination paper for a candidate shall be numbered in order.

6402. Nomination papers, properly assembled, may be consolidated and fastened together by counties, but nomination papers signed by voters in different counties shall not be thus fastened together.

6403. The county elections official shall examine all nomination papers left with him or her for examination and shall disregard and mark "not sufficient" the name of any voter of his or her county which does not appear in the same handwriting on an affidavit of registration in the office of the county elections official. He or she shall also disregard and mark "not sufficient" the name of any voter of his or her county who has not stated his or her intention to affiliate with the Republican Party.

6404. Within five days after any nomination papers are left with him or her for examination, the county elections official shall:

(a) Examine and affix to them a certificate reciting that he or she has examined them and stating the number of names which have not been marked "not sufficient."

(b) Transmit the papers with the certificate of examination to the Secretary of State, who shall file the papers.

6405. The county elections official's certificate to nomination papers of a candidate shall be in substantially the following form:

COUNTY ELECTION OFFICIAL'S CERTIFICATE TO NOMINATION PAPERS OF A CANDIDATE

To the Secretary of State:

I, County Elections Official of the County of _____, hereby certify that I have examined the nomination papers, to which this certificate is attached, of the candidate for the ensuing presidential primary, and that the number of names which I have not marked "not sufficient" is _____.

The candidate named in the nomination papers is _____.

Dated this _____ day of _____, 19__.

_____, County Elections Official

By _____, Deputy

6406. No filing fee is required from any person to be voted for at a presidential primary.

Article 7. Canvass of Returns. Certificate of Election

6420. The Secretary of State shall, not later than the 24th day after the election, compile and file in his or her office a statement of the canvassed returns filed with him or her by the county elections officials.

The compiled statement shall show for each candidate the total of the votes received and the votes received in each county.

6421. The Secretary of State shall, not later than the 24th day after the election, issue a certificate of election to the candidate who received the largest vote cast of that party, that person thereby being the party's presidential nominee candidate from California.

6422. The Secretary of State shall, not later than the 24th day after the election, issue a certification to each person selected as a delegate.

Article 8. Write-in Candidates

6440. Notwithstanding any other provision of law, a space shall be provided on the presidential primary ballot for an elector to write in the name of a candidate for President of the United States.

6441. Any person who believes his or her name may be used as a write-in candidate for President of the United States shall, not later than 21 days before the primary election, file his or her endorsement of his or her write-in candidacy with the Secretary of State, or no votes shall be counted for him or her.

6442. Any person who receives, by write-in vote, a plurality of the votes cast for President of the United States shall, within 10 days after the primary election, file a list of delegates to the national convention of his or her political party with the Secretary of State in the manner prescribed in Section 6471.

6443. If the candidate fails to file a list of delegates, the state central committee of the party in whose primary the candidate received the plurality vote shall, within 10 days of the end of the 10-day period required in Section 6442, file a list of delegates with the Secretary of State. The delegation shall go to the convention unpledged to any candidate.

Article 9. Selection of Delegates

6460. Every candidate whether selected pursuant to Section 6340, or unselected as referred to in Section 6343, who wishes to have a delegation of electors pledged to his or her candidacy in accordance with the result of the presidential preference primary or who wishes to have an official California delegation at the Republican National Convention shall form a delegation in compliance with Section 6461.

6461. (a) The delegation of each candidate shall be composed as follows:

(1) Seventy-eight percent of the delegation, or the nearest whole number thereto which provides for a total number of district delegates equal to at least three times the number of congressional districts within the state, shall be composed of three delegates selected for each congressional district.

(2) The remainder of the delegation shall be composed of delegates selected at large from throughout the state.

The names of the persons chosen as delegates shall be submitted to the Secretary of State, by the candidate or his or her designee, no later than 30 days before the presidential primary election for certification.

(b) There shall be no more than one alternate per delegate. Alternates shall be appointed by the candidate or his or her designee and shall be appointed by congressional districts, the number per congressional district to be no less than three. Such alternates shall be submitted to the Secretary of State within 30 days after the primary for certification.

(c) Each delegate to the Republican National Convention shall use his or her best efforts at the convention for the party's presidential nominee candidate from California to whom the delegate has pledged support until the person is nominated for the office of President of the United States by the convention, receives less than 10 percent of the votes for nomination by the convention, releases the delegate from his or her obligation, or until two convention nominating ballots have been taken. Thereafter, each delegate shall be free to vote as he or she chooses, and no rule may be adopted by a delegation requiring the delegation to vote as a body or causing the vote of any delegate to go uncounted or unreported.

Article 10. Republican Presidential Primary Ballot

6480. The format of the presidential portion of the Republican primary ballot shall be governed by Chapter 2 (commencing with Section 13100) of Division 13, with the following exceptions:

(a) Instructions to voters shall exclude any reference to groups of candidates preferring a person whose name appears on the ballot or references to any group of candidates not expressing a preference for a particular candidate.

(b) In place of the heading: "FOR DELEGATES TO NATIONAL CONVENTION. Vote for One Group Only." shall appear the heading: "PRESIDENTIAL PREFERENCE. Vote for One."

(c) Candidates for President shall be listed on the ballot in the same order provided for in Chapter 2 (commencing with Section 13100) of Division 13 for statewide candidates.

(d) Only the names of selected and unselected presidential candidates shall appear on the ballot in the spaces provided. No reference shall be made to their being preferred by candidates for delegates to the national convention.

CHAPTER 3. AMERICAN INDEPENDENT PARTY PRESIDENTIAL PRIMARY

Article 1. General Provisions

6500. This chapter shall be applicable to the presidential primary ballot of the American Independent Party only.

6501. The presidential primary ballot shall be divided into a presidential preference portion and a delegate selection portion.

6502. No filing fee is required from any person to be voted for at any presidential primary.

Article 2. Qualification of Candidates for Presidential Preference Portion of Primary Ballot

6520. The Secretary of State shall place the name of a candidate upon the American Independent Party presidential preference ballot when the Secretary of State has determined that the candidate is generally advocated for or recognized in the news media throughout the United States or California as actively seeking the nomination of the American Independent Party for President of the United States.

On or before the 120th day preceding a presidential primary election the Secretary of State shall publicly announce and distribute to the news media for publication a list of the candidates he or she intends to place on the ballot at the following presidential primary election. Following this announcement he or she may add candidates to his or her selection, but he or she may not delete any candidate whose name appears on the announced list.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6520. The Secretary of State shall place the name of a candidate upon the American Independent Party presidential preference ballot when the Secretary of State has determined that the candidate is generally advocated for or recognized in the news media throughout the United States or California as actively seeking the nomination of the American Independent Party for President of the United States.

On or before February 1 immediately preceding a presidential primary election the Secretary of State shall publicly announce and distribute to the news media for publication a list of the candidates he or she intends to place on the ballot at the following presidential primary election. Following this announcement he or she may add candidates to his or her selection, but he or she may not delete any candidate whose name appears on the announced list.

This section shall become operative on January 1, 1998.

6521. When the Secretary of State decides to place the name of a candidate on the ballot pursuant to Section 6520, he or she shall notify the candidate that his or her name will appear on the ballot of this state in the presidential primary.

The Secretary of State shall also notify the candidate that he or she may withdraw his or her name from the ballot by filing with the Secretary of State an affidavit pursuant to Section 6522, no later than the 64th day before that election.

6522. If a selected candidate or an unselected candidate files with the Secretary of State, no later than the 64th day before the presidential primary, an affidavit stating without qualification that he or she is not now a candidate for the office of President of the United States at the forthcoming presidential primary election, his or her name shall be omitted from the list of names certified by the Secretary of State to the county elections officials for the ballot and his or her name shall not appear on the presidential preference portion of the primary ballot.

6523. Any unselected candidate desiring to have his or her name placed on the presidential preference primary ballot without filing a group of candidates for delegates, shall have nomination papers circulated in his or her behalf. In order to qualify his or her name for placement on the presidential preference primary ballot, the candidate's nomination papers shall be signed by voters registered as affiliated with the American Independent Party equal in number to not less than 1 percent of the number of persons registered as members of the American Independent Party as reflected in the report of registration issued by the Secretary of State on the 135th day preceding the presidential primary election.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6523. Any unselected candidate desiring to have his or her name placed on the presidential preference primary ballot without filing a group of candidates for delegates, shall have nomination papers circulated in his or her behalf. In order to qualify his or her name for placement on the presidential preference primary ballot, the candidate's nomination papers shall be signed by voters registered as affiliated with the American Independent Party equal in number to not less than 1 percent of the number of persons registered as members of the American Independent Party as reflected in the report of registration issued by the Secretary of State in January of the year of the presidential primary election.

This section shall become operative on January 1, 1998.

6524. The name of any presidential candidate, to whom are pledged a group of candidates who have qualified by petition for the delegate selection portion of the presidential primary ballot, shall, in addition, be automatically placed on the presidential preference portion of the ballot, without the filing of a separate petition for the presidential preference portion of the ballot.

Article 3. Determination of Number of Delegates to National Convention

6540. The chairperson of the state central committee of the American Independent Party shall notify the Secretary of State on or before the 120th day preceding the presidential primary as to the number of delegates to represent the state in the next national convention of his or her party.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6540. The chairperson of the state central committee of the American Independent Party shall notify the Secretary of State on or before the first day of February immediately preceding the presidential primary as to the number of delegates to represent the state in the next national convention of his or her party.

This section shall become operative on January 1, 1998.

6541. The notification of the number of delegates shall be in substantially the following form:

STATEMENT OF NUMBER OF DELEGATES TO AMERICAN INDEPENDENT PARTY NATIONAL CONVENTION

To the Secretary of State Sacramento, California

You are hereby notified that the number of delegates to represent the State of California in the next national convention of the American Independent Party is _____.

Dated this _____ day of _____, 19__.

_____

Chairperson of the State Central Committee of the American Independent Party.

6542. If the chairperson of the state central committee fails to file a notice as to the number of delegates, the Secretary of State shall ascertain the number from the call for the national convention issued by the national committee of the party.

6543. The Secretary of State shall, on or before the 110th day preceding the presidential primary, certify to the county elections official of each county the number of delegates to be elected by the American Independent Party.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6543. The Secretary of State shall, on or before the 10th day of February of the year of the presidential primary, certify to the county elections official of each county the number of delegates to be elected by the American Independent Party.

This section shall become operative on January 1, 1998.

Article 4. Qualification of Groups of Candidates for Delegate Selection Portion of Primary Ballot

6560. Any three or more voters of the state who are registered as intending to affiliate with the American Independent Party may join as a committee in proposing the nomination of a group of candidates for delegates. The committee may elect its officers, select the candidates for delegates, select the chairman of the committee, arrange for the appointment of circulators, secure the endorsement of the person, if any, preferred by the committee as candidate for presidential nominee, appoint alternates, assemble and file all necessary papers, and take all other action which may be necessary for the organization and election of the group. The committee in performing its functions may act through its officers or designated representatives.

6561. The committee, on or before the 104th day before the presidential primary election, shall file with the Secretary of State a statement containing the name of the committee and the names of its officers.

6562. The number of candidates for delegates grouped on a

nomination paper shall be equal to the total number of delegates to be elected by the party.

6563. The candidates of each group shall be selected as follows:

(a) No less than two-thirds shall be selected to represent congressional districts, and each of these candidates shall be a resident of the district which he or she is selected to represent. Congressional district candidates shall be apportioned among congressional districts according to the ratio which the American Independent Party registration in the district bears to the total statewide registration of the party as determined by the Secretary of State on January 1 of the year in which the presidential primary is held, except that at least one candidate in the group shall be a resident of each congressional district.

(b) No more than one-third may be selected from the state at large without regard to congressional district of residence.

If the names are not so selected, the names shall not be certified to the county elections official by the Secretary of State.

6564. The number of alternates to be selected shall be no greater than one for each delegate, and the alternates shall be selected in the manner prescribed by Section 6563.

6565. Each group of candidates for delegates that intends to pledge itself to the candidacy of a particular candidate for presidential nominee shall have the endorsement of the candidate for presidential nominee for whom the members of the group have filed a preference. The endorsement of the candidate for presidential nominee shall be filed with the Secretary of State before the circulation of any nomination papers of a group of candidates pledged to the support of his or her candidacy as presidential nominee.

6566. Any candidate whose nomination paper is filed in more than one group is disqualified from running as a member of any group.

6567. Each candidate for delegate to the American Independent Party convention shall file with the Secretary of State, before the circulation of nomination papers of the group of candidates of which he or she is a member, an affidavit which shall be in substantially the following form:

AFFIDAVIT OF CANDIDATE FOR DELEGATE

State of California }
County of _____ } ss.

I, _____, reside at No. _____ Street, in the City (or Town) of _____, in the County of _____ in the _____ Congressional District, State of California; my election precinct is _____ and I reside and am a voter therein, my post office address is _____, County of _____.

I desire to be a candidate, at the presidential primary to be held

on the _____ day of _____, 19__, for delegate to the next national convention of the American Independent Party, and if elected as delegate I will qualify.

I personally prefer _____ as nominee of the American Independent Party for President of the United States, and hereby declare to the voters of my party in the State of California that if elected as delegate to their national party convention, I shall to the best of my judgment and ability, support _____ as nominee of the American Independent Party for president of the United States. (This statement of preference shall be omitted where the candidate for delegate is part of a group not expressing a preference for a particular candidate.)

I express no preference for a particular candidate. The chairman of my group is _____. (This statement shall be omitted where the candidate for delegate is part of a group expressing a preference for a particular candidate.)

I declare under penalty of perjury that the foregoing is true and correct.

(Signed) _____

6568. Nomination papers for candidates for delegates shall be signed by voters registered as affiliated with the American Independent Party equal in number to not less than 1 percent of the number of persons registered as members of the American Independent Party as reflected in the report of registration issued by the Secretary of State on the 135th day preceding the presidential primary election.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6568. Nomination papers for candidates for delegates shall be signed by voters registered as affiliated with the American Independent Party equal in number to not less than 1 percent of the number of persons registered as members of the American Independent Party as reflected in the report of registration issued by the Secretary of State in January of the year of the presidential primary election.

This section shall become operative on January 1, 1998.

Article 5. Preparation, Circulation, and Filing of Nomination Papers

6580. This article applies to the nomination of a candidate for the presidential preference portion of the primary ballot, to the nomination of a slate of delegates pledged to the candidacy of a particular candidate, and to the nomination of a slate of delegates not expressing a preference for a particular candidate.

6581. Nomination papers properly prepared, circulated, signed and verified shall be left, for examination, with the elections official

of the county in which they are circulated at least 74 days prior to the presidential primary.

6582. Each signer of a nomination paper for the presidential primary ballot may sign only one paper. He or she shall declare his or her intention to support the presidential preference candidate or the group of candidates for delegates, add his or her place of residence, and give his or her street and number if any.

6583. Any nomination paper may be presented in sections. Each section shall contain the name of the presidential preference candidate, or the names of the candidates for delegates comprising the group, and, if applicable, that they have expressed a preference for a named person as candidate for presidential nominee of the party. Each section shall bear the name of the county in which it is circulated. Only voters of the county registered as intending to affiliate with the American Independent Party are competent to sign.

6584. Each section shall be prepared with the lines for signatures numbered, and shall have attached the affidavit of the circulator who obtained signatures to it, stating, under penalty of perjury, that all the signatures to the attached section were made in his or her presence, and that to the best of his or her knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be. No other affidavit is required.

6585. A verified nomination paper is prima facie evidence that the signatures are genuine and that the persons signing it are voters, until it is otherwise proved by comparison of the signatures with the affidavits of registration in the office of the elections official.

6586. The nomination paper for a candidate for the presidential preference portion of the ballot shall be in substantially the following form:

SECTION OF NOMINATION PAPER SIGNED BY VOTER ON BEHALF OF PRESIDENTIAL PREFERENCE PRIMARY CANDIDATE

Section _____ Page _____

County of _____. Nomination paper of a presidential preference candidate for the American Independent Party presidential primary ballot.

State of California }
County of _____ } ss.

SIGNER'S STATEMENT

I, the undersigned, am a voter of the County of _____, State of California, and am registered as intending to affiliate with the American Independent Party. I hereby nominate _____ for the

presidential preference portion of the American Independent Party's presidential primary ballot, to be voted for at the presidential primary to be held on the _____ day of _____, 19__. I have not signed the nomination paper of any other candidate for the same office, or for any group of delegates, to the national convention of the party, and I further declare that I intend to support the candidate named herein.

Number	Signature	Printed name	Residence
1			
2			
3			
etc.			

CIRCULATOR'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of a candidate in the presidential preference primary of the American Independent Party; that all the signatures on this section of the nomination paper numbered from 1 to _____, inclusive, were made in my presence, that the signatures were obtained between _____, 19__ and _____, 19__, and that to the best of my knowledge and belief each signature is the genuine signature of the person whose name it purports to be.

I declare under penalty of perjury that the foregoing is true and correct.

(Signed) _____

Circulator

6587. The nomination paper for a group of candidates for delegates, to the national convention shall be in substantially the following form:

SECTION OF NOMINATION PAPER SIGNED BY VOTER ON BEHALF OF GROUP OF CANDIDATES FOR DELEGATES TO NATIONAL CONVENTION

Section _____ Page _____

County of _____. Nomination paper of group of candidates for election as delegates by the American Independent Party pledged to the candidacy of _____ as presidential nominee or expressing no preference, as the case may be.

State of California
County of _____ } ss.

SIGNER'S STATEMENT

I, the undersigned, am a voter of the County of _____, State of California, and am registered as intending to affiliate with the American Independent Party. I hereby nominate the following:

Number	Names	Residence city or town	County
1			
2			
3			

(to such number as may be required) etc., as candidates for delegates to the American Independent Party's National Convention, to be voted for at the presidential primary to be held on the _____ day of _____, 19__. I have not signed the nomination paper of any other candidates for the same office, or of any candidate for the presidential preference portion of the primary ballot, and I further declare that I intend to support for nomination the candidates named herein.

Number	Signature	Printed name	Residence
1			
2			
3			
etc.			

CIRCULATOR'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of the group of candidates named in the signer's statement above as candidates for nomination and election by the American Independent Party as delegates to represent the State of California in the party's next national convention; that all the signatures on this section of the nomination paper numbered from 1 to _____, inclusive, were made in my presence, that the signatures were obtained between _____, 19__ and _____, 19__, and that to the best of my knowledge and belief each signature is the genuine signature of the person whose name it purports to be.

I declare under penalty of perjury that the foregoing is true and correct.

(Signed) _____

Circulator

6588. Either a candidate, or his or her duly authorized representative, or a committee organized to form a group of candidates for delegates, or its duly authorized representatives, may arrange for the appointment of circulators to serve within the county in which the circulators reside in securing signatures to the nomination paper of the candidate or group of candidates. The circulators thus appointed are the duly authorized circulators to secure signatures to the nomination paper of the candidate or group of candidates in that county. The form on which the circulators are appointed shall be filed with the elections official of the county in which the circulators reside, at or before the time the nomination paper of the candidate or group of candidates is left with the elections official for examination. Additional circulators may be appointed in the same manner as the original circulators were appointed.

6589. The circulators may be appointed by the candidate, or his or her duly authorized representative, on a form which shall be substantially as follows:

APPOINTMENT OF CIRCULATORS BY CANDIDATE, OR HIS OR HER DULY AUTHORIZED REPRESENTATIVE

I, the undersigned candidate for the presidential preference primary of the American Independent Party (or duly authorized representative of _____), do hereby appoint the following voters of the County of _____ as circulators to obtain signatures, in that county, to nomination papers placing _____ in nomination for the presidential preference primary.

CIRCULATORS

Name	Residence
_____	_____
_____	_____
_____	_____
etc.	etc.

CANDIDATE OR DULY AUTHORIZED REPRESENTATIVE

(Signed) _____
Name Residence

Filed in the office of the County Clerk of _____ County, this _____ day of _____, 19__.

_____
County Clerk
By _____
Deputy

6590. The circulators may be appointed by the committee, or its duly authorized representatives, on a form that shall be substantially as follows:

APPOINTMENT OF CIRCULATORS BY COMMITTEE, OR ITS DULY AUTHORIZED REPRESENTATIVES

We, the undersigned, members of the _____ committee (or duly authorized representatives of the _____ committee), do hereby appoint the following voters of the County of _____ as circulators to obtain signatures, in that county, to nomination papers placing in nomination as a group of candidates for election as delegates to represent the State of California in the next national convention of the American Independent Party that group of candidates organized by us (by the committee of which we are duly authorized representatives):

CIRCULATORS

Name	Residence
_____	_____
_____	_____
_____	_____
etc.	etc.

COMMITTEE OR ITS DULY AUTHORIZED REPRESENTATIVES

(Signed) _____

Name	Residence
_____	_____
_____	_____
_____	_____
etc.	etc.

Filed in the office of the County Elections Official of _____ County, this _____ day of _____, 19__.

_____
County Elections Official
By _____
Deputy

6591. Circulators may obtain signatures to the nomination paper of the candidate or group of candidates for whom they were appointed, at any time not more than 104 nor less than 74 days prior to the presidential primary.

6592. An elections official or deputy elections official may not be appointed as a circulator and circulators may not obtain signatures within 100 feet of any election booth or polling place.

6593. Each section of a nomination paper, after being verified, shall be returned to the candidate, committee, or duly authorized representatives, by whom the circulator was appointed. All the sections circulated in any county shall be collected by the candidate, committee, or duly authorized representatives, who shall arrange and leave the sections with the elections official for examination.

6594. Prior to filing, the sections of a nomination paper for any candidate or group of candidates shall be numbered in order.

6595. Nomination papers, properly assembled, may be consolidated and fastened together by counties, but nomination papers signed by voters in different counties shall not be fastened together.

6596. The elections official shall examine all nomination papers left with him or her for examination and shall disregard and mark "not sufficient" the name of any voter of his or her county that does not appear in the same handwriting on an affidavit of registration in the office of the elections official. He or she shall also disregard and mark "not sufficient" the name of any voter of his or her county who has not stated his or her intention to affiliate with the political party named in the nomination papers.

6597. Within five days after any nomination papers are left with him or her for examination, the elections official shall:

(a) Examine and affix to them a certificate reciting that he or she has examined them and stating the number of names which have not been marked "not sufficient."

(b) Transmit the papers with the certificate of examination to the

Secretary of State, who shall file the papers.

6598. The certificate of the elections official to nomination papers of a candidate or group of candidates shall be in substantially the following form:

CERTIFICATE OF COUNTY ELECTIONS OFFICIAL TO NOMINATION PAPERS OF CANDIDATE OR GROUP OF CANDIDATES

To the Secretary of State:

I, County Elections Official of the County of _____, hereby certify that I have examined the nomination papers, to which this certificate is attached, of the candidate or group of candidates for election at the ensuing presidential primary, and that the number of names which I have not marked "not sufficient" is _____.

The candidate or group of candidates named in the nomination papers comprise the following (state names of candidates):

_____	_____	_____
_____	_____	_____
_____	_____	_____
etc.	etc.	etc.

Dated this _____ day of _____, 19__.

_____

(SEAL) County Elections Official

By _____

Deputy

6599. Upon receipt of a sufficient number of signatures for the nomination of a candidate for the presidential preference primary ballot, the Secretary of State shall notify the candidate, or his or her duly authorized representative, of that fact.

Upon receipt of a sufficient number of signatures for the nomination of a group of candidates for delegates, the Secretary of State shall notify the chairperson of the committee of that fact.

In each case, the Secretary of State shall advise the person receiving the notification that no more signatures will be received.

Article 6. American Independent Presidential Primary Ballot

6620. For the presidential primary election, the format of the American Independent Party ballot shall be governed by Chapter 2 (commencing with Section 13100) of Division 13, with the following exceptions:

(a) In place of the heading "Delegates to National Convention, vote for one group only" shall appear the heading "Presidential Preference, vote for one".

(b) Selected and unselected presidential candidates shall be listed below the heading specified in subdivision (a).

(c) Below the presidential candidates shall appear in the same

column, or in the next column if there is not sufficient space in the first column, the heading "Delegates to National Convention, vote for one group."

(d) The instructions to voters shall be the same as provided for in Chapter 2 (commencing with Section 13100) of Division 13 except that they shall begin with the words, "To express your preference for a candidate for nomination for President, stamp a cross (+) in the square opposite the name of the candidate. Your vote in this portion of the ballot is advisory only. Delegates to the national convention will be elected in the delegate selection portion of the ballot."

6621. Any person who believes his or her name may be used as a write-in candidate for President of the United States shall, not later than 21 days before the primary election, file his or her endorsement of his or her write-in candidacy with the Secretary of State, or no votes shall be counted for him or her.

Article 7. Postelection Proceedings

6640. The Secretary of State shall, not later than the 24th day after the election, compile and file in his or her office a statement of the canvassed returns filed with him or her by the election officials.

The compiled statement shall show for each group the total of the votes received, the votes received in each county, and the names of the candidates comprising that group.

6641. The Secretary of State shall, not later than the 24th day after the election, issue a certificate of election to each person who is a member of the group that received the largest vote cast for any group of that party, the person thereby being elected as delegate to his or her national party convention.

6642. Any person who receives, by write-in vote, a plurality of the votes cast in the delegate selection primary shall, within 31 days after the primary election, file a list of delegates to the national convention with the Secretary of State in the manner prescribed in Sections 6563 and 6564.

6643. If the candidate fails to file a list of delegates, the state central committee of the party shall, within 10 days of the end of the 31-day period required in Section 6642, file a list of delegates with the Secretary of State. The delegation shall go to the convention unpledged to any candidate.

6644. If a group of candidates for delegates preferring a particular presidential candidate are elected at the presidential primary, the delegates to the national convention shall, before leaving the state to attend the convention, meet together and select a chairperson of the delegation.

6645. If a group of candidates for delegates expressing no preference for a particular presidential candidate are elected, the chairperson of the group shall serve as chairperson of the delegation. If, for any reason, the chairperson of the group becomes unable to serve as chairperson of the delegation, the delegates shall meet and

select a new chairperson as provided in Section 6644.

6646. If a vacancy exists in the office of the delegate or alternate, the chairperson of the delegation shall designate a person to fill that vacancy.

6647. The alternate of any delegate who is unable to attend the convention shall attend the convention in his or her place and shall otherwise discharge the duties of that delegate. An alternate shall not vote in place of the delegate whom he or she represents when the delegate is occupying his or her seat at the convention.

CHAPTER 4. PEACE AND FREEDOM PARTY PRESIDENTIAL PRIMARY

Article 1. General Provisions

6700. This chapter shall be applicable to the presidential primary ballot of the Peace and Freedom Party only.

6701. The Peace and Freedom Party presidential primary ballot shall be divided into a presidential preference portion and a national convention delegate selection portion.

6702. No filing fee is required from any person to be voted for at any Peace and Freedom Party presidential primary.

Article 2. Qualification of Candidates for Presidential Preference Portion of Primary Ballot

6720. The Secretary of State shall place the name of a candidate upon the Peace and Freedom Party presidential preference ballot when the Secretary of State has determined that the candidate is generally advocated for or recognized throughout the United States or California as actively seeking the presidential nomination of the Peace and Freedom Party or the national party with which the Peace and Freedom Party is affiliated.

6721. On or before the 150th day preceding each presidential election year, the Secretary of State shall send a letter by first-class mail to the Chairpeople of record of the Peace and Freedom Party State and County Central Committees, informing them that, while a response is not required, any information they wish to submit will be considered by the Secretary of State in the determination of candidates to be placed on the Peace and Freedom Party presidential preference primary ballot pursuant to Section 6720.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6721. On or before January 7 of each presidential election year, the Secretary of State shall send a letter by first-class mail to the Chairpeople of record of the Peace and Freedom Party State and County Central Committees, informing them that, while a response is not required, any information they wish to submit will be

considered by the Secretary of State in the determination of candidates to be placed on the Peace and Freedom Party presidential preference primary ballot pursuant to Section 6720.

This section shall become operative on January 1, 1998.

6722. On or before the 120th day preceding a presidential primary election, the Secretary of State shall publicly announce and distribute to the news media for publication a list of the candidates he or she intends to place on the ballot at the following presidential primary election. Following this announcement, the Secretary of State may add to his or her selection, but he or she may not delete any candidate whose name appears on the announced list. The Secretary of State shall mail a copy of the list and any subsequent additions thereto to the Chairpersons of the Peace and Freedom Party State and County Central Committees.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6722. On or before February 1 immediately preceding a presidential primary election, the Secretary of State shall publicly announce and distribute to the news media for publication a list of the candidates she or he intends to place on the ballot at the following presidential primary election. Following this announcement, the Secretary of State may add to her or his selection, but she or he may not delete any candidate whose name appears on the announced list. The Secretary of State shall mail a copy of the list and any subsequent additions thereto to the Chairpeople of the Peace and Freedom Party State and County Central Committees.

This section shall become operative on January 1, 1998.

6723. When the Secretary of State decides to place the name of a candidate on the ballot pursuant to Sections 6720 and 6722, the Secretary of State shall notify the candidate that her or his name will appear on the Peace and Freedom Party presidential preference primary ballot of this state, but that a committee must be formed, delegates certified, and a petition filed pursuant to this chapter in order to have her or his name appear on the delegate selection portion of the presidential primary ballot.

The Secretary of State shall also notify the candidate that she or he may withdraw her or his name from the ballot by filing with the Secretary of State an affidavit pursuant to Section 6724, no later than the 64th day before that election.

6724. If a selected candidate or an unselected candidate files with the Secretary of State, no later than the 64th day before the presidential primary, an affidavit stating without qualification that she or he is not a candidate for the office of President of the United States at the forthcoming presidential primary election, the name of that candidate shall be omitted from the list of names certified by the Secretary of State to the elections official for the ballot and the name of that candidate shall not appear on the presidential preference portion of the primary ballot.

6725. Any unselected candidate desiring to have his or her name placed on the presidential preference primary ballot without filing a group of candidates for delegates, shall have nomination papers circulated on his or her behalf. In order to qualify the name of the candidate for placement on the presidential preference primary ballot, the nomination papers of the candidate shall be signed by voters registered as affiliated with the Peace and Freedom Party equal in number to not less than 1 percent of the number of persons registered as members of the Peace and Freedom Party as reflected in the report of registration issued by the Secretary of State on the 135th day preceding the presidential primary election.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6725. Any unselected candidate desiring to have her or his name placed on the presidential preference primary ballot without filing a group of candidates for delegates, shall have nomination papers circulated on her or his behalf. In order to qualify the name of that candidate for placement on the presidential preference primary ballot, the nomination papers of the candidate shall be signed by voters registered as affiliated with the Peace and Freedom Party equal in number to not less than 1 percent of the number of persons registered as members of the Peace and Freedom Party as reflected in the report of registration issued by the Secretary of State in January of the year of the presidential primary election.

This section shall become operative on January 1, 1998.

6726. Whenever a group of candidates for delegates pledged to a particular presidential candidate qualifies by petition for the national convention delegate selection portion of the presidential primary ballot, the name of the presidential candidate to whom the group is pledged shall automatically be placed on the presidential preference portion of the ballot, without the filing of a separate petition for the presidential preference portion of the ballot.

Article 3. Determination of Number to National Convention

6740. The Chairperson of the Peace and Freedom Party State Central Committee shall notify the Secretary of State on or before the 120th day preceding the presidential primary as to the following:

(a) The name of that national party with which the Peace and Freedom Party has affiliated, by vote of its state central committee, and the address and telephone number of the principal office of that national party.

(b) The number of delegates to represent the Peace and Freedom Party of California at the next national convention of that national party.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6740. The Chairperson of the Peace and Freedom Party State Central Committee shall notify the Secretary of State on or before the 1st of February immediately preceding the presidential primary as to both of the following:

(a) The name of that national party with which the Peace and Freedom Party has affiliated, by vote of its state central committee, and the address and telephone number of the principal office of that national party.

(b) The number of delegates to represent the Peace and Freedom Party of California at the next national convention of that national party.

This section shall become operative on January 1, 1998.

6741. The notification of national affiliation and number of national convention delegates shall be in substantially the following form:

STATEMENT OF NATIONAL AFFILIATION AND NUMBER OF NATIONAL CONVENTION DELEGATES FOR THE PEACE AND FREEDOM PARTY OF CALIFORNIA

To the Secretary of State
Sacramento, California

You are hereby notified that the Peace and Freedom Party of California, by vote of its state central committee, has affiliated on the national level with the _____ Party. The address of the _____ Party's principal office is _____, and its telephone number is _____.

You are further notified that the number of delegates to represent the Peace and Freedom Party of California in the next national convention of the _____ Party is _____.

Dated this _____ day of _____, 19__.

_____

Chairperson of the State Central Committee of the Peace and Freedom Party of California

6742. If the Chairperson of the Peace and Freedom Party State Central Committee fails to file the notice required by Section 6741 by the 120th day preceding the presidential primary, the Secretary of State shall ascertain the national affiliation of the party and the number of delegates from the chairperson or any other officer of record of the party state central committee or from the national party with which the Peace and Freedom Party was affiliated as indicated by the most recent statement of affiliation on file by the chairperson of the party state central committee.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6742. If the Chairperson of the Peace and Freedom Party State Central Committee fails to file the notice required by Section 6741 by the first day of February immediately preceding the presidential primary, the Secretary of State shall ascertain the national affiliation of the party and the number of delegates from the chairperson or any other officer of record of the party state central committee or from the national party with which the Peace and Freedom Party was affiliated as indicated by the most recent statement of the affiliation on file by the chairperson of the party state central committee.

This section shall become operative on January 1, 1998.

6743. On or before the 110th day before the presidential primary, the Secretary of State shall certify all of the following to the elections official of each county:

(a) The name of that national party with which the Peace and Freedom Party is presently affiliated and the address and telephone number of the principal office of that national party.

(b) The number of delegates to represent the Peace and Freedom Party of California in the next national convention of that national party.

(c) The number of delegate candidates to be selected from each territory pursuant to Sections 6744 and 6745 by each committee proposing a group of national convention delegates.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6743. On or before the 10th of February before the presidential primary, the Secretary of State shall certify all of the following to the elections official of each county:

(a) The name of that national party with which the Peace and Freedom Party is presently affiliated and the address and telephone number of the principal office of that national party.

(b) The number of delegates to represent the Peace and Freedom Party of California in the next national convention of that national party.

(c) The number of delegate candidates to be selected from each territory pursuant to Sections 6744 and 6745 by each committee proposing a group of national convention delegates.

This section shall become operative on January 1, 1998.

6744. For the purposes of this chapter, the boundary between the northern and southern territories of the state shall be that latitudinal line coinciding with the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties.

6745. The number of delegate candidates to be selected from each territory by each group shall be, to the nearest whole number, proportional to that portion of the state's registered Peace and Freedom Party voters residing in each territory as reflected in statements of voters and political affiliation transmitted to the Secretary of State on the 135th day before the presidential primary election.

Article 4. Qualification of Group of Candidates for National Convention Delegate Portion of Primary Ballot

6760. Any five or more voters of the state who are registered as affiliated with the Peace and Freedom Party may join as a committee in proposing the nomination of a group of candidates for delegates. The committee may elect its officers, select the candidates for delegates, select the chairperson of the committee, appoint circulators, secure the endorsement of the person, if any, preferred by the committee as candidate for presidential nominee, appoint alternates, assemble and file all necessary papers, and take all other action that may be necessary for the organization and election of the group. The committee in performing its functions may act through its officers or designated representatives.

6761. The committee, on or before the 104th day before the presidential primary election, shall file with the Secretary of State a statement containing the name of the committee and the names, residence addresses and telephone numbers of at least five of its members, and its officers.

6762. The number of candidates for delegate grouped on a nomination paper shall be equal to the total number of delegates to be elected by the Peace and Freedom Party.

6763. The names of the grouped candidates shall be so selected that the portion of the candidates for national convention delegates residing in the northern and southern territories shall be proportional, to the nearest whole number, to the portion of the state's Peace and Freedom Party registered voters residing in each territory as computed and certified by the Secretary of State pursuant to Section 6743. If the names are not so selected, the names shall not be certified by the Secretary of State.

6764. The number of alternates to be selected shall be no greater than one for each delegate, and the alternates shall be selected in the manner prescribed by Section 6763.

6765. Each group of candidates for delegate that intends to pledge itself to the candidacy of a particular candidate for presidential nominee shall have the endorsement of the candidate for presidential nominee for whom the members of the group have filed a preference. The endorsement of the candidate for presidential nominee shall be filed with the Secretary of State before the circulation of any nomination papers of a group of candidates pledged to the support of her or his candidacy as presidential nominee.

6766. Any candidate for delegate whose nomination paper is filed in more than one group is disqualified from running as a member of any group.

6767. Each candidate for Peace and Freedom Party delegate to the national convention shall file with the Secretary of State, before the circulation of nomination papers of the group of candidates of which she or he is a member, a declaration which shall state all of the

following:

(a) Her or his residence, with street and number, if any.

(b) That she or he is a voter registered as affiliated with the Peace and Freedom Party at her or his residence address.

(c) That she or he is a candidate for office of delegate.

(d) That she or he will not withdraw as a candidate before the presidential primary.

(e) That she or he will qualify as a delegate if elected.

(f) In the case of a candidate for delegate on a slate of delegates pledging itself to the candidacy of a particular candidate for presidential nominee, the following statement: "I personally prefer _____ as the nominee of the Peace and Freedom Party for President of the United States, and hereby declare to the voters of the Peace and Freedom Party in the State of California that if elected as delegate to the national convention, I shall to the best of my judgment and ability, support _____ as the nominee of the Peace and Freedom Party for President of the United States."

(g) In the case of a candidate for delegate on a slate of delegates not expressing a preference for a particular presidential candidate the following statement: "I express no preference for a particular presidential candidate. The chairperson of my group is _____."

The name of a candidate for presidential nominee shall not be placed on the ballot unless this declaration has been properly filed by each candidate for delegate of the group supporting the candidate.

6768. The declaration of a candidate for delegate shall be in substantially the following form:

DECLARATION OF CANDIDATE FOR DELEGATE

State of California } ss.
County of _____ }

I, _____, reside and am a registered voter at

_____,
(street address)

in the _____ of _____,
(city or town)

in the County of _____, State of California.

I desire to be a candidate, at the presidential primary to be held on the _____ day of June 19__, for delegate to the next national convention of the _____ Party with which the Peace and Freedom Party of California is affiliated on the national level and I will qualify as a delegate if elected.

I personally prefer _____ as the nominee of the Peace and Freedom Party for President of the United States, and hereby declare to the voters of the Peace and Freedom Party in the State of California that if elected as delegate to the national party convention, I shall to the best of my judgment and ability, support

_____ as the nominee of the Peace and Freedom Party for President of the United States. (This statement of preference shall be omitted where the candidate for delegate is part of a group not expressing a preference for a particular presidential candidate.)

I declare under penalty of perjury that the foregoing is true and correct.

Executed at _____, California, this _____ day of _____, 19__.

(Signed) _____

6769. Nomination papers for candidates for delegates shall be signed by voters registered as affiliated with the Peace and Freedom Party equal in number to not less than 1 percent of the number of persons registered as members of the Peace and Freedom Party, as reflected in the reports of registration transmitted to the Secretary of State on the 135th day before the presidential primary.

Article 5. Preparation, Circulation and Filing of Nominating Papers

6780. This article applies to the nomination of a candidate for the presidential preference portion of the primary ballot, to the nomination of a slate of delegates pledged to the candidacy of a particular candidate, and to the nomination of a slate of delegates not expressing a preference for a particular candidate.

6781. Nomination papers properly prepared, circulated, signed and verified shall be left for examination with the elections official of the county in which they are circulated, at least 74 days prior to the presidential primary.

6782. Each signer of a nomination paper for the presidential primary ballot may sign only one paper. The signer shall add her or his printed name and place of residence indicating city and giving the street and number, if any.

6783. Any nomination paper may be presented in sections. Each section shall contain the name of the presidential preference candidate, or the names of the candidates for delegates comprising the group, and, if applicable, that they have expressed a preference for a named person as candidate for presidential nominee of the party. Each section shall bear the name of the county in which it is circulated. Only voters of the county registered as affiliated with the Peace and Freedom Party are competent to sign.

6784. Each section shall be prepared with the lines, for signatures numbered, and shall have attached the declaration of the circulator who obtained signatures to it, stating, under penalty of perjury, that she or he is a voter registered as affiliated with the Peace and Freedom Party, that all the signatures to the attached section were made in her or his presence, and that to the best of her or his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be. No other

declaration is required to be made.

6785. A verified nomination paper is prima facie evidence that the signatures are genuine and that the persons signing it are voters registered as affiliated with the Peace and Freedom Party until it is otherwise proven by comparison of the signatures with the affidavits of registration in the office of the elections official.

6786. The nomination paper for a candidate for the presidential preference portion of the ballot shall be in substantially the following form:

SECTION OF NOMINATION PAPER SIGNED BY VOTER ON BEHALF OF PRESIDENTIAL PREFERENCE PRIMARY CANDIDATE

Section _____ Page _____
County of _____.

Nomination paper of a presidential preference candidate for the Peace and Freedom Party presidential primary ballot.

State of California
County of _____ } ss.

SIGNER'S STATEMENT

I, the undersigned, am a voter of the County of _____, State of California, and am registered as affiliated with the Peace and Freedom Party. I hereby nominate _____ for the presidential preference portion of the Peace and Freedom Party's presidential primary ballot, to be voted for at the presidential primary to be held on the _____ day of June, 19__. I have not signed the nomination paper of any other candidate for the same office, or for any group of delegates to the national convention of the _____ Party, with which the Peace and Freedom Party of California is affiliated on the national level.

Number	Signature	Printed name	Residence street address /city
1.			
2.			
3.			
etc.			

CIRCULATOR'S DECLARATION

I, _____, affirm that I am a voter registered as affiliated with the Peace and Freedom Party in _____ County, that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of a candidate in the presidential preference primary of the Peace and Freedom Party, that all the signatures on this section of the nomination paper numbered from 1 to _____, inclusive, were made in my presence, that the signatures were obtained between _____, 19__, and _____, 19__, and that to the best of my knowledge and belief each signature is the genuine signature of the person whose name it purports to be.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at _____, California, this _____ day of _____, 19__.

(Signed) _____
Circulator

(Printed name) _____

6787. The nomination paper for a group of candidates for delegates to the national convention shall be in substantially the following form:

SECTION OF NOMINATION PAPER SIGNED BY VOTER ON BEHALF OF GROUP OF CANDIDATES FOR DELEGATES TO NATIONAL CONVENTION

Section _____ Page _____
County of _____.

Nomination paper of group of candidates for election as delegates by the Peace and Freedom Party pledged to the candidacy of _____ as presidential nominee, or expressing no preference, as the case may be.

State of California
County of _____ } ss.

SIGNER'S STATEMENT

I, the undersigned, am a voter of the County of _____, State of California, and am registered as affiliated with the Peace and Freedom Party. I hereby nominate the following:

Number	Names	Residence city or town	County
1.			
2.			
3.			
etc.			

(to the number as may be required) as candidates for delegate to the national convention of the _____ Party, with which the Peace and Freedom Party of California is affiliated on the national level, to be voted for at the presidential primary to be held on the _____ day of June, 19__. I have not signed the nomination paper of any other group of candidates for delegates to the national convention or of any candidate for the presidential preference portion of the primary ballot.

Number	Signature	Printed name	Residence street address /city
1.			
2.			
3.			
etc.			

CIRCULATOR'S DECLARATION

I, _____, affirm that I am a voter registered as affiliated with the Peace and Freedom Party in _____ County, that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of the group of candidates named in the signer's statement above as candidates for nomination and election by the Peace and Freedom Party as delegates to represent the Peace and Freedom Party of California in the _____ Party's next national convention, that all the signatures on this section of the nomination paper numbered from 1 to _____, inclusive, were made in my presence, that the signatures were obtained between _____ 19__, and _____ 19__, and that to the best of my knowledge and belief each signature is the genuine signature of the

person whose name it purports to be.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at _____, California, this _____ day of _____, 19__.

(Signed) _____
Circulator

(Printed name) _____

6788. A candidate, a committee organized to form a group of candidates for delegates, or a duly authorized representative of either that candidate or committee, may appoint circulators to serve in any county of the state in securing signatures to the nomination paper of the candidate or group of candidates. The form on which the circulators are appointed shall be filed with the elections official of each county in which the circulators secure signatures, at or before the time the nomination paper of the candidate or group of candidates is left with the elections official for examination. Additional circulators may be appointed in the same manner as the original verification deputies were appointed.

6789. The circulators may be appointed by the candidate or the authorized representative of the candidate on a form that shall be substantially as follows:

APPOINTMENT OF CIRCULATORS BY CANDIDATE OR BY DULY AUTHORIZED REPRESENTATIVE OF CANDIDATE

I, the undersigned candidate for the presidential preference primary of the Peace and Freedom Party (or duly authorized representative of _____), do hereby appoint the following voters registered as affiliated with the Peace and Freedom Party, as circulators to obtain signatures to nomination papers placing _____ in nomination for the presidential preference primary.

CIRCULATORS

Name	Residence	County
_____	_____	_____
_____	_____	_____
_____	_____	_____
etc.	etc.	etc.

CANDIDATE OR DULY AUTHORIZED REPRESENTATIVE

(Signed) _____ _____
Name Residence

Filed in the office of the County Elections Official of _____ County, this _____ day of _____, 19__.

_____
County Elections Official
By _____
Deputy

6790. The circulators may be appointed by the committee, or its duly authorized representatives, on a form that shall be substantially as follows:

APPOINTMENT OF CIRCULATORS BY COMMITTEE OR ITS DULY AUTHORIZED REPRESENTATIVES

We, the undersigned, members of the _____ committee (or duly authorized representatives of the _____ committee), do hereby appoint the following voters registered as affiliated with the Peace and Freedom Party as circulators to obtain signatures to nomination papers for that group of candidates for election as delegates organized by us (or by the committee of which we are duly authorized representatives) to represent the Peace and Freedom Party of California in the _____ Party's next national convention:

CIRCULATORS

Name	Residence	County
_____	_____	_____
_____	_____	_____
_____	_____	_____
etc.	etc.	etc.

COMMITTEE OR ITS DULY AUTHORIZED REPRESENTATIVES

(Signed) _____ _____
Name Residence
(Signed) _____ _____
Name Residence
(Signed) _____ _____
Name Residence
etc. etc.

Filed in the office of the County Elections Official _____ County, this _____ day of _____, 19__.

County Elections Official
By _____
Deputy

6791. Circulators may obtain signatures to the nomination paper of the candidate or group of candidates for whom they were appointed, at any time not more than 104 nor less than 74 days prior to the presidential primary.

6792. Each section of a nomination paper, after being verified, shall be returned by the verification deputy who circulated it to the candidate, committee, or duly authorized representatives, by whom the verification deputy was appointed. All the sections circulated in any county shall be collected by the candidate, committee, or duly authorized representatives, who shall arrange and leave the sections with the elections official for examination.

6793. Prior to filing, the sections of a nomination paper for any candidate or group of candidates shall be numbered in order.

6794. Nomination papers, properly assembled, may be consolidated and fastened together by counties, but nomination papers signed by voters in different counties shall not be fastened together.

6795. The elections official shall examine all nomination papers left with her or him for examination and shall disregard and mark "not sufficient" the name of any voter of that county that does not appear in the same handwriting on an affidavit of registration in the office of the elections official. The elections official shall also disregard and mark "not sufficient" the name of any voter of the county who is not registered as affiliated with the Peace and Freedom Party.

6796. Within five days after any nomination papers are left with the elections official for examination, the elections official shall:

(a) Examine and affix to them a certificate reciting that she or he has examined them and stating the number of names that have not been marked "not sufficient."

(b) Transmit the papers with the certificate of examination to the Secretary of State, who shall file the papers.

6797. The certificate of the elections official to nomination papers of a candidate or group of candidates shall be in substantially the following form:

CERTIFICATE OF ELECTIONS OFFICIAL TO NOMINATION PAPERS OF CANDIDATE OR GROUP OF CANDIDATES

To the Secretary of State:

I, County Elections Official of the County of _____, hereby

certify that I have examined the nomination papers, to which this certificate is attached, of the presidential candidate or group of candidates for delegates at the ensuing presidential primary, and that the number of names which I have not marked "not sufficient" is _____.

The candidate or group of candidates named in the nomination papers comprise the following (state names of candidates):

_____	_____	_____
_____	_____	_____
_____	_____	_____
etc.	etc.	etc.

Dated this _____ day of _____, 19__.

(SEAL)

_____
County Elections Official
By _____
Deputy

6798. (a) Upon receipt of a sufficient number of signatures for the nomination of a candidate for the presidential preference primary ballot, the Secretary of State shall notify the candidate or his or her duly authorized representative of that fact.

(b) Upon receipt of a sufficient number of signatures for the nomination of a group of candidates for delegates, the Secretary of State shall notify the chairperson of the committee of that fact.

(c) In each case, the Secretary of State shall advise the person receiving the notification that no more signatures will be received.

Article 6. Peace and Freedom Party Presidential Primary Ballot

6820. Upon the filing of nomination papers, the presidential preference primary candidate or slate of delegate candidates shall be voted upon, but the names of candidates for delegates to the national convention shall not be printed upon the ballot.

6821. For the presidential primary election, the format of the Peace and Freedom Party ballot shall be governed by Chapter 2 (commencing with Section 13100) of Division 13, with the following exceptions:

(a) In place of the heading "Delegates to National Convention, vote for one group only" shall appear the heading "Presidential Preference, vote for one."

(b) Selected and unselected presidential candidates shall be listed below the heading specified in subdivision (a).

(c) Below the presidential candidates shall appear in the same column, or in the next column if there is not sufficient space in the first column, the heading "Delegates to National Convention, vote for one group".

(d) Presidential candidates who have qualified for the ballot and to whom delegations are pledged, and the chairpersons of unpledged

delegations which have qualified for the ballot, shall be listed below the heading specified in subdivision (c).

(e) The instructions to voters shall be the same as provided for in Chapter 2 (commencing with Section 13100) of Division 13, except that they shall begin with the words, "To express your preference for a candidate for nomination for President, stamp a cross (+) in the square opposite the name of the candidate. Your vote in this portion of the ballot is advisory only. Delegates to the national convention will be elected in the delegate selection portion of the ballot."

6822. Any person who believes his or her name may be used as a write-in candidate for President of the United States shall, not later than 21 days before the primary election, file an endorsement of his or her write-in candidacy with the Secretary of State, or no votes shall be counted for that write-in candidate.

Article 7. Certification of National Convention Delegates Elected and Postelection Proceedings

6840. The number of delegates to be certified as elected from each group of delegate candidates shall be the whole number nearest the product obtained by multiplying the total number of delegates to be elected by the ratio which that group's vote bears to the total of votes cast for all those groups of delegates, with the following to apply in order to adjust the total number of delegates certified to the total number to which the state is entitled:

(a) If this procedure would result in a total number of delegates being elected greater than the number to which the state is entitled, the calculation outlined above shall be repeated using a total vote cast for all groups of delegates that is sufficiently larger than the actual total vote so as to give a total number of delegates elected equal to the number to which the state is entitled.

(b) If this procedure would result in a total number of delegates being elected smaller than the number to which the state is entitled, the calculation outlined above shall be repeated using a total vote cast for all groups of delegates that is sufficiently smaller than the actual total vote so as to give a total number of delegates elected equal to the number to which the state is entitled.

(c) If a tie renders unworkable the procedure for adjusting to the proper delegate total outlined in subdivisions (a) and (b), those delegate candidates so tied shall be certified as elected with a fractional vote proportional to their group's total vote so that the total number of delegates certified, including the fractional-vote delegates, equals the number to which the state is entitled.

6841. The Secretary of State shall send, not more than three business days after the presidential primary, to the chairperson of each committee qualifying a group of candidates for national convention delegates for the Peace and Freedom Party presidential primary ballot a copy of the semiofficial canvass of the vote for each of the group of delegates showing the vote for each group in each

county, the total statewide vote for each group, and the tentative number of delegates which each group will be entitled to have declared elected.

6842. Each group of candidates for delegate shall meet or confer after the presidential primary and by majority vote shall determine the order in which members of the group shall be certified as elected by the Secretary of State. The order so determined shall commence with a resident of either the northern or the southern territories, and the names thereafter shall alternate between residents of the northern and southern territories until the alternation is no longer possible. The order so determined shall be certified to the Secretary of State by the chairperson of the committee forming the group not later than the 21st day after the election.

6843. The Secretary of State shall, not later than the 24th day after the election, file in her or his office a statement of the canvassed returns for the Peace and Freedom Party presidential preferential primary and the national convention delegate selection election, compiled from the returns filed with the Secretary of State by the county elections officials. The compiled statement shall show, for each candidate or group, the total of the votes received, the votes received in each county, and, in the case of a group, the names of the candidates comprising that group.

6844. The Secretary of State shall, not later than the 24th day after the election, issue a certificate of election to as many persons in each group as are entitled to be declared elected from that group pursuant to Section 6840. The names certified from each group shall be certified in the order in which they were specified by the group pursuant to Section 6842. If no order was specified, the Secretary of State shall certify as many persons from the group as are entitled to be elected from the order in which the names of the candidates appeared on the nomination paper of the group, with the additional requirement that an equal number of names be selected of persons residing in the northern and the southern territories, or, if the number to be selected is odd, that one more person residing in the territory with the greater portion of the state's registered Peace and Freedom Party voters shall be certified than the number of persons certified residing in the other territory. Certification of any delegates to which a write-in candidate is entitled shall be made within three business days of the receipt of the names of those delegates pursuant to Sections 6846 and 6847.

6845. Any person who receives, by write-in vote, a sufficient number of votes in the national convention delegate selection portion of the Peace and Freedom Party presidential primary to be entitled to one or more convention delegates pursuant to Section 6840, shall, within 31 days after the primary election, file a list of as many delegates as the person is entitled to with the Secretary of State. The delegates selected shall meet the residence distribution requirement specified in Section 6763 and shall be voters registered as affiliated with the Peace and Freedom Party in California.

6846. If a write-in candidate fails to file the list of delegates pursuant to Section 6845, the state central committee of the party shall, within 10 days of the end of the 31-day period specified in Section 6845, file a list of those delegates with the Secretary of State. Any delegates so certified by the state central committee shall attend the convention unpledged to any candidate.

6847. The elected delegates may, if they desire, meet or confer prior to attending the convention to select a chairperson of the delegation and to fill any vacancies in the office of delegate or alternate.

6848. The alternate of any delegate who is unable to attend the convention shall attend the convention in the place of the delegate and shall otherwise discharge the duties of that delegate. An alternate shall not vote in the place of the delegate whom the alternate represents when the delegate is occupying her or his seat at the convention.

6849. The Secretary of State shall, as soon as practicable, certify to the chairperson of the state central committee and to the chairperson of each party county central committee of record, the final list of national convention delegates.

PART 2. ELECTIONS FOR PRESIDENTIAL ELECTORS

CHAPTER 1. GENERAL PROVISIONS

6900. The term "elector" or "presidential elector" as used in this chapter means an elector of President and Vice President of the United States, and not an elector as defined in Section 321.

6901. Whenever a political party, in accordance with Section 7100, 7300, 7578, or 7843, submits to the Secretary of State its certified list of nominees for electors of President and Vice President of the United States, the Secretary of State shall notify each candidate for elector of his or her nomination by the party. The Secretary of State shall cause the names of the candidates for President and Vice President of the several political parties to be placed upon the ballot for the ensuing general election.

6902. At the general election in each leap year, or at any other time as may be prescribed by the laws of the United States, there shall be chosen by the voters of the state as many electors of President and Vice President of the United States as the state is then entitled to.

6903. On or before the day of meeting of the electors, the Governor shall deliver to the electors a list of the names of electors, and he or she shall perform any other duties relating to presidential electors which are required of him or her by the laws of the United States.

6904. The electors chosen shall assemble at the State Capitol at 2 o'clock in the afternoon on the first Monday after the second Wednesday in December next following their election.

6905. In case of the death or absence of any elector chosen, or if the number of electors is deficient for any other reason, the electors then present shall elect, from the citizens of the state, as many persons as will supply the deficiency.

6906. The electors, when convened, if both candidates are alive, shall vote by ballot for that person for President and that person for Vice President of the United States, who are, respectively, the candidates of the political party which they represent, one of whom, at least, is not an inhabitant of this state.

6907. The electors shall name in their ballots the person voted for as President, and in separate ballots the person voted for as Vice President.

6908. The electors shall make separate lists of all persons voted for as President and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign, certify, seal, and transmit by mail to the seat of the Government of the United States, directed to the President of the Senate.

6909. Each presidential elector shall receive ten dollars ($10) for his or her services, and mileage at the rate of five cents ($0.05) per mile for each mile of travel from his or her domicile to the State Capitol and return.

Their accounts therefor shall be certified by the Secretary of State, and audited by the Controller, who shall draw his or her warrants for the same on the Treasurer, payable out of the General Fund.

CHAPTER 2. DUTIES OF THE SECRETARY OF STATE

6950. Within three days of receiving the names of delegate candidates from the chairpersons of the steering committees, as provided for in Section 6086, the Secretary of State shall transmit to each elections official a certified list, for each congressional district wholly or partially within that county, containing the names of the delegate candidates selected and pledged to each candidate or uncommitted delegation who is entitled to be voted for on the ballot at the presidential primary.

The certified list shall be in substantially the following form:

Certified List of Delegate Candidates
In the _____ Congressional District

To the County Elections Official of _____ County:

I, _____, Secretary of State, do hereby certify that the following persons, listed beneath the name of the presidential candidate or uncommitted delegation they are pledged to, are the delegate candidates who will represent the voters of this congressional district at the _____ Democratic National Convention to the extent, based on his or her proportional share of the total votes for president in this district, that each presidential candidate or uncommitted delegation is entitled to delegates from this district.

List of Delegates Pledged to Presidential
Candidates and Uncommitted Delegations
In the _____ Congressional District

Delegates Pledged to Rosaly Lever	Delegates Pledged to Janice Atkinson
Deborah Seiler Elaine Ginnold George Mann Darren Chesin	John Mott-Smith Rosa Garcia-Viteri Bruce Bolinger Mary DeLost
Delegates Pledged to Christopher Zirkle	Delegates Pledged to Unpledged Delegation, James Ashford, Chairperson
Mark Terry Romulo Lopez Linda M. Gonzalez Joe Ayala Lori Joseph	Abra Reynaga Sylvia Cheng Michael Ognisty Bill Pitts Lynne Chinn

Dated at Sacramento, California, this _____ day of _____, 19____.

(SEAL) _____
Secretary of State

6951. At least 59 days before the presidential primary, the Secretary of State shall transmit to each elections official a certified list containing the names of the candidates to appear on the Peace and Freedom Party presidential preference primary ballot and the names and addresses of the candidates for delegates for whom nomination papers have been filed and who are entitled to be voted for at the presidential primary.

6952. The certified list required by Section 6951 shall be in substantially the following form:

CERTIFIED LIST OF CANDIDATES FOR PRESIDENTIAL PREFERENCE PRIMARY AND CANDIDATES FOR NATIONAL CONVENTION DELEGATE

To the County Elections Official of _____ County:

I, _____, Secretary of State, do hereby certify that the names of the candidates to appear on the March _____, 19__, Peace and Freedom Party presidential preference primary ballot, in the order which they are to appear, are:

_____	_____
_____	_____
etc.	etc.

I further certify that the following list contains the name and post office address of each person who is entitled to be voted for at the March _____, 19__, Peace and Freedom Party presidential primary election as a candidate for delegate to the next national convention of the _____ Party with which the Peace and Freedom Party of California is affiliated on the national level. I further certify that the groups of candidates for delegate each appear under the name of the person for whom the group has expressed a preference as nominee of the Peace and Freedom Party for President, or under the name of the group chairperson in case of a group not expressing a preference, and that the groups are listed in the order in which they are to appear on the national convention delegate portion of the Peace and Freedom Party presidential primary ballot.

LIST OF CANDIDATES FOR NATIONAL CONVENTION DELEGATE

PEACE AND FREEDOM PARTY

Candidates preferring _____	
Name	Address
Top of group	
1. _____	_____
2. _____	_____
3. _____	_____
etc.	etc.

Candidates expressing
no preference
(Name of chairperson)

_____

Name	Address
Top of group	
1. _____	_____
2. _____	_____
3. _____	_____
etc.	etc.

Dated at Sacramento, California, this _____ day of _____, 19__.

_____

(SEAL) Secretary of State

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

6952. The certified list required by Section 6951 shall be in substantially the following form:

CERTIFIED LIST OF CANDIDATES FOR PRESIDENTIAL PREFERENCE PRIMARY AND CANDIDATES FOR NATIONAL CONVENTION DELEGATE

To the County Elections Official of _____ County:

I, _____, Secretary of State, do hereby certify that the names of the candidates to appear on the June _____, 19__, Peace and Freedom Party presidential preference primary ballot, in the order which they are to appear, are:

_____	_____
_____	_____
etc.	etc.

I further certify that the following list contains the name and post office address of each person who is entitled to be voted for at the June _____, 19__, Peace and Freedom Party presidential primary election as a candidate for delegate to the next national convention of the _____ Party with which the Peace and Freedom Party of California is affiliated on the national level. I further certify that the groups of candidates for delegate each appear under the name of the person for whom the group has expressed a preference as nominee

of the Peace and Freedom Party for President, or under the name of the group chairperson in case of a group not expressing a preference, and that the groups are listed in the order in which they are to appear on the national convention delegate portion of the Peace and Freedom Party presidential primary ballot.

LIST OF CANDIDATES FOR NATIONAL CONVENTION DELEGATE

PEACE AND FREEDOM PARTY

Candidates preferring

Name	Address
Top of group	
1	
2	
3	
etc.	etc.

Candidates expressing no preference (Name of chairperson)

Name	Address
Top of group	
1	
2	
3	
etc.	etc.

Dated at Sacramento, California, this _____ day of _____, 19__.

(SEAL) Secretary of State

This section shall become operative on January 1, 1998.

6953. At least 59 days before a presidential primary, the Secretary of State shall transmit to each elections official a certified list containing the names and addresses of the candidates for delegates

for whom nomination papers have been filed and who are entitled to be voted for at the presidential primary.

The certified list shall be in substantially the following form:

CERTIFIED LIST OF CANDIDATES FOR DELEGATE

SECRETARY OF STATE

To the Elections Official of _____ County:

I, _____, Secretary of State, do hereby certify that the following list contains the name and post office address of each person for whom nomination papers have been filed in my office and who is entitled to be voted for at the presidential primary to be held on the _____ day of _____, 19__, as delegate to the next national convention of the American Independent Party; I further certify that in the list, under the name of the person for whom a preference as nominee of the American Independent Party for President has been expressed, or under the name of the chairman of a group not expressing a preference, there is stated the name of each candidate for delegate who has filed a statement pursuant to Section 6567, and who may be voted for as one of a group.

LIST OF CANDIDATES

American Independent Party

Candidates preferring _____	Candidates preferring _____	No preference (Name of chairman) _____
Name Address Top of group	Name Address Top of group	Name Address Top of group
1. _____	1. _____	1. _____
2. _____	2. _____	2. _____
3. _____	3. _____	3. _____
etc.	etc.	etc.

Dated at Sacramento, California, this _____ day of _____, 19__.

_____

(SEAL) Secretary of State

6954. At least 59 days before a presidential primary, the Secretary of State shall transmit to each county elections official a certified list containing the names and addresses of the candidates for whom nomination papers have been filed and who are entitled to be voted for at the presidential primary.

The certified list shall be in substantially the following form:

CERTIFIED LIST OF CANDIDATES
SECRETARY OF STATE

To the County Elections Official of _____ County:

I, _____, Secretary of State, do hereby certify that the following list contains the name and post office address of each person for whom nomination papers have been filed in my office and who is entitled to be voted for at the presidential primary to be held on the _____ day of _____, 19__, as nominee of the Republican Party.

List of Candidates
Republican Party

	Name	Address
1	_____	_____
2	_____	_____
3	_____	_____
etc.		etc.

Dated at Sacramento, California, this _____ day of _____, 19__.

_____
(SEAL) Secretary of State

DIVISION 7. POLITICAL PARTY ORGANIZATION AND CENTRAL COMMITTEE ELECTIONS

PART 1. DUTIES OF THE SECRETARY OF STATE

CHAPTER 1. MAINTENANCE OF RECORDS OF MEMBERSHIP OF STATE AND COUNTY CENTRAL COMMITTEES

7000. The Secretary of State shall file and keep lists of members of state and county central committees. A copy of each list shall be made available for public inspection.

The state chairperson of each qualified political party shall send to the Secretary of State a list of its party's officers and the address and phone number of its party headquarters.

The state chairpersons of the Democratic and Republican state central committees shall send to the Secretary of State, within 30 days of their organizational meetings, lists of members in two sequences. The first list shall be alphabetical by member's last name. The second list shall be alphabetical by appointor and shall set forth each appointor's appointments immediately following the appointor's name. Each list shall show the member's name and address including mail, city and zip code, telephone number if given,

and the district numbers of the congressional, senatorial, and Assembly districts in which the member resides. Within seven days of any change to the membership list, the state chairperson shall send the Secretary of State notice of the change in the same format as the original membership list.

Within 30 days of the election or appointment of any member of a county central committee of a qualified political party, the county elections official shall send the Secretary of State a list of the members of the county central committee.

PART 2. DEMOCRATIC PARTY

CHAPTER 1. GENERAL PROVISIONS

7050. This part shall apply to the organization, operation, and functions of that political party known as the Democratic Party of California.

CHAPTER 2. PRESIDENTIAL ELECTORS

7100. In each year of the general election at which electors of President and Vice President of the United States are to be chosen, each congressional nominee shall designate one presidential elector and shall file his or her name, residence and business address with the Secretary of State by October 1 of the presidential election year. Each United States senatorial nominee, determined by the last two United States senatorial elections, shall designate one presidential elector and shall file his or her name, residence and business address with the Secretary of State by October 1 of the presidential election year. In the event there is no United States senatorial nominee or no congressional nominee in any particular district, the state chairperson shall designate one presidential elector for each vacancy and shall file his or her name, residence and business address with the Secretary of State by October 1 of the presidential election year.

CHAPTER 3. STATE CENTRAL COMMITTEE

Article 1. Members

7150. The state central committee shall consist of:
(a) One member for each of the following elective officials:
(1) Governor.
(2) Lieutenant Governor.
(3) Treasurer.
(4) Controller.
(5) Attorney General.
(6) Secretary of State.
(7) All members of the State Board of Equalization.

(8) All Senators and Representatives of Congress from California.
(9) All Members of the Legislature.
(b) Members elected by county central committees pursuant to this part.
(c) Members appointed pursuant to this part.
(d) The national committeemen and national committeewomen of the party.
(e) Any person elected to fill a vacancy in the Legislature in a special election.
(f) Any immediate past party officers as may be provided by party bylaws.
(g) Members elected by Assembly district caucuses pursuant to this part.
(h) The President of the California Democratic Council.
(i) The president, vice president, northern section president, and the southern section president of the Federation of Young Democrats, and any officer of the National Young Democrats who resides in California.
(j) Former elected, nonjudicial statewide officeholders as described in Section 7153.

7151. Within 30 days after the direct primary election, the state central committee shall send a notice by mail to each person who, as of the following year, will be a member of the state central committee according to subdivision (a) of Section 7150. The notice shall inform each person that:
(a) The person shall appoint members of the state central committee and the number of appointments to which he or she is entitled or will be entitled, depending on the outcome of the general election.
(b) The appointment of members of the state central committee shall be made in writing in the form prescribed in Section 7152 signed by the person and filed in accordance with Section 7159.
(c) A form of proxy is enclosed which the person may use.

7152. The state central committee shall enclose with the notice required by Section 7151 one copy of the following statement for appointment of members of the state central committee, which shall be in substantially the following form:

APPOINTMENT OF MEMBERS OF THE STATE CENTRAL COMMITTEE OF THE DEMOCRATIC PARTY MEETING AT _____, IN THE YEAR 19__

I, _____, duly qualified as a member of the state central committee of the Democratic Party at _____ in the year 19__ by virtue of my (appointment by the _____ central committee) (nomination) (election to the office of _____) (strike out parts inapplicable) on the _____ day of _____, 19__ upon the Democratic ticket, do hereby appoint the following voters, who shall be members of the state central committee:

Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address

7153. Any person who held any of the offices described in paragraphs (1) to (6), inclusive, of subdivision (a) of Section 7150 or held the Office of Superintendent of Public Instruction, and who at the time of filing his or her nomination documents for the particular statewide office was affiliated with the Democratic Party, as indicated by the person's affidavit of registration, shall be a member of the state central committee.

Former officeholders entitled to committee membership under this section shall serve on the committee for that length of time equal to the time that the officeholders served in the particular statewide office.

7154. (a) Each officer named in subdivision (a) of Section 7150 who was nominated and elected as a candidate of the party and whose term of office extends beyond the first Monday in December in the case of legislators and the Monday after January 1 in the case of other officers next following the direct primary election, or the appointee or successor appointed, elected, or otherwise designated by law to fill a vacancy in the office of any that officer, shall be known as a "holdover member."

(b) Each candidate of the party in whose behalf nomination papers were filed and who was nominated at the direct primary election by that party shall be known as a "nominee member." Nominees for an office, the term of which extends beyond two years, are members of each succeeding state central committee until that following the direct primary election at which nominations for the office are again to be made. If a candidate is a "nominee member" in the year in which he or she is nominated, and is elected to the office at the succeeding general election, the candidate shall be considered a "holdover member" in the next odd-numbered year.

(c) One member shall be appointed pursuant to Section 7168 for each of the officers named in subdivision (a) of Section 7150 not represented by a "holdover member" nor by a "nominee member" of the party.

7155. A person otherwise qualifying for more than one membership listed in subdivision (a) of Section 7150 shall be a

member solely by virtue of that membership last acquired.

7156. Each nominee member listed in subdivision (a) of Section 7150 shall appoint to membership on this committee voters as follows:

(a) Governor, Lieutenant Governor, Treasurer, Controller, Attorney General, Secretary of State, United States Senators from California, members of the State Board of Equalization, and Senators shall each appoint three voters, at least two of whom shall be of the opposite sex.

(b) Representatives of Congress from California and Members of the Assembly shall each appoint two voters, at least one of whom shall be of the opposite sex.

All appointments made pursuant to this section shall be absolute.

7157. A "holdover member" or a "nominee member" who has been elected to an office under subdivision (a) of Section 7150 at the general election, or following any special election, shall appoint additional voters to membership on this committee, as follows:

(a) Governor, Lieutenant Governor, Treasurer, Controller, Attorney General, Secretary of State, United States Senators from California, members of the State Board of Equalization, and Senators, three additional voters, at least one of whom shall be of the opposite sex.

(b) Representatives of Congress from California and Members of the Assembly, three additional voters, at least two of whom shall be of the opposite sex.

All appointments made pursuant to this section shall be absolute.

7158. Any person who is a member of this committee by reason of having been elected to fill a vacancy in the Legislature in a special election, shall within 60 days of the special election, appoint additional members to this committee in the same manner as holdover members and nominee members make those appointments.

7159. Appointments of members of this committee shall be made in writing, signed by the member, and delivered to the chairperson of this committee. The deliveries shall be made not later than 5 p.m. of the first Monday following the regular statewide general election.

7160. Within 35 days following the regular statewide general election, each county central committee shall elect members to the state central committee as follows: two members for the first 5,000 registered Democrats, and one member for each 25,000 registered Democrats or portion thereof, over 5,000. The number of registered Democrats shall be as of the most recent report of registration to the Secretary of State.

The members elected pursuant to this section shall be divided as equally as possible between men and women who are members of the county central committee and were elected at the preceding direct primary, or who were appointed pursuant to Section 7228.

7161. By no later than January 1 of an odd-numbered year, the county chair shall notify the chair of the state central committee in

writing signed by him or her of the names and addresses of those persons elected pursuant to Section 7160.

7162. Within 35 days following the regular statewide general election, a caucus as provided in this section shall be convened in each Assembly district in the state by the Democratic nominee for the Assembly at the general election or by the nominee's designee. However, if the Assembly district is the residence of the Democratic State Senate nominee, or if none, of the holdover Democratic Senate nominee, the caucus shall be called by that person or his or her designee. If the Assembly district is the residence of more than one such person, in addition to the Assembly nominee, the caucus shall be called by the person whose senatorial district includes the greatest proportion of the registered voters of the Assembly district, or that person's designee. In the event of the failure of the appropriate person to call the caucus, the chair of the state central committee shall call the caucus.

The person calling the caucus shall be assisted by an Assembly district executive committee in setting the time and place of the caucus and the procedure to be followed at the caucus. The executive committee shall consist of all members of the state central committee who attained that membership by operation of law or by appointment after the preceding direct primary election and county central committee members elected in the preceding direct primary election residing in the district.

The person calling the caucus or the person's designee shall preside over the caucus as temporary chair until a permanent chair is elected by the caucus.

Every registered Democrat as of the close of registration and residing in the district shall be entitled to attend and vote at the caucus. The executive committee and the person calling the caucus shall make every reasonable effort to make known to all registered Democrats in the district the time, place, and purpose of the caucus and their right to participate.

Each caucus shall elect five members to the state central committee. In addition, each caucus shall elect five alternates who shall serve as members in the event of vacancies. Alternates shall fill vacancies in the order based upon the number of votes received in the caucus. To the extent possible, persons elected shall be equally divided between men and women.

Any person seeking election to the state central committee shall, at least five days prior to the Assembly district caucus, deliver to the temporary chairperson a nomination paper subscribed to by the number of signers set forth in subdivision (c) of Section 8062. The nomination paper shall be in a form substantially similar to that set forth in Section 8041, except that the paper shall not be examined and certified by the elections official. The elections official shall not be required to prepare or distribute nomination papers to persons seeking election pursuant to this section.

The number of nomination papers that a person may sign shall not

exceed the number of members that the caucus is entitled to elect to the state central committee.

The temporary chairperson or his or her designee shall be responsible for the examination and verification of all nomination papers.

Within five days following the Assembly district caucus, the person calling the caucus shall notify the chairperson of the state central committee in writing signed by him or her of the names and addresses of the persons elected to membership on the state central committee and their alternates pursuant to this section.

7163. The chairperson of this committee shall notify each person appointed or elected as a member of this committee:

(a) That he or she is a member of the committee.

(b) Of the date, time, and place of the meeting of the committee.

(c) That the meeting may be attended either in person or by proxy.

(d) That every proxy shall be filed in the office of the state central committee not later than 5 o'clock of the afternoon of the day preceding the meeting of the committee.

(e) That the proxy shall be in writing, signed by the member under penalty of perjury.

The chairperson shall enclose with each notice one copy of the form of proxy.

7164. A person is not eligible for appointment or election to this committee if he or she is not registered as affiliated with this party at the time of his or her appointment or election.

7165. This committee may remove any member appointed or elected to this committee, who during his or her term of membership affiliates with or registers as a member of another party, publicly advocates that the voters should not vote for the nominee of the party for any office, or publicly gives support to or avows a preference for a candidate of another party or candidate who is opposed to a candidate nominated by this party.

7166. In the event of the appointment or election of an ineligible person, or whenever any member of this committee dies, resigns, becomes incapacitated to act, or removes from the jurisdiction of the committee or ceases to be a member of the committee's party, a vacancy exists which shall be filled in the manner prescribed in Section 7167. A vacancy shall also exist on this committee when a member is removed from the committee pursuant to Section 7195 or Section 7165, and the vacancy shall be filled in the manner prescribed in Section 7167.

7167. Vacancies shall be filled as follows:

(a) Should a member appointed to membership pursuant to Section 7156 or 7157 cease to be a member for any of the reasons specified in Section 7166, the vacancy shall be filled by the person who made the appointment, unless that person is himself or herself no longer a member of this committee or indicates that he or she does not wish to fill the vacancy, in which instances the committee

shall do so.

Notice shall be given by the committee to a person entitled to fill a vacancy under this section as soon as possible after the occurrence of the vacancy, and vacancies shall be filled not less than three days preceding the first meeting of the committee. The committee shall notify in writing the state chair of all appointments made pursuant to this subdivision.

(b) Should a member elected to membership by a county central committee pursuant to Section 7160 cease to be a member for any of the reasons specified in Section 7166, notice shall be given to the county central committee by the state central committee as soon as possible after the occurrence of the vacancy, and the county central committee shall fill the vacancy at its next meeting following the notification and notify in writing the state chair of the election held pursuant to this subdivision.

(c) Should a member elected to membership by an Assembly district caucus pursuant to Section 7162 cease to be a member for any of the reasons specified in Section 7166, the resulting vacancy shall be filled by the alternate who was elected for that purpose pursuant to Section 7162.

In the event a vacancy develops for which there is no alternate, either because insufficient alternates were elected or because a vacancy or vacancies have developed among the alternates, at the earliest opportunity the Assembly nominee, the Senate nominee, or the holdover Senate nominee or the appropriate nominee's designee shall call a meeting of the Assembly district executive committee which shall fill the vacancy. That person shall notify in writing the state chair of the selection made pursuant to this subdivision.

7168. Members shall be appointed to fill vacancies occurring pursuant to subdivision (c) of Section 7154 as follows:

(a) If the vacancy occurs in a senatorial or Assembly district situated wholly within the limits of a single county, by appointment by the county central committee of the party in the county of a person who resides in the senatorial or Assembly district involved.

(b) If the vacancy occurs in a senatorial or Assembly district comprising two or more counties, by appointment by the county central committee of the party in the county in which the disqualified or deceased member resided, if the vacancy is caused by disqualification or death, or in which the "holdover member" or "nominee member" of the Republican party resides, if the vacancy is due to any other cause.

(c) If the vacancy occurs as to a United States Senator from California or as to any of the state officers named in subdivision (a) of Section 7150, by appointment by the state central committee.

(d) If the vacancy occurs as to any Representative in Congress from California, by appointment by the state central committee of a voter who resides within the congressional district to be represented.

7169. In the event the appointment of alternate or associate

members is authorized by statute or the bylaws of the committee, this committee shall supply forms to the members for the appointment of such members. The forms shall be in substantially the same language as set forth in Section 7152, and shall contain suitable spaces wherein there can be listed their names, addresses, and the numbers of the congressional, Assembly, and senatorial districts in which the appointees reside.

7170. Each member listed in subdivision (a) of Section 7150 may appoint three voters as associate members of this committee. An associate member shall have those privileges and obligations as are given to him or her by the rules of the committee but shall not be eligible to vote.

7171. A person who is registered to vote is qualified for appointment to the committee if otherwise eligible.

Article 2. Meetings

7180. The committee shall meet at a suitable location, which shall be designated by the executive committee of the state central committee or, if the executive committee does not meet, by the chairperson of the committee.

Article 3. Proxies

7185. The state central committee shall enclose with the notice required by Section 7151 copies of the following form of proxy for attendance at the meeting of the state central committee:

PROXY FOR ATTENDANCE AT THE STATE CENTRAL COMMITTEE OF THE DEMOCRATIC PARTY MEETING AT _____, IN THE YEAR 19__

I, _____, duly qualified to sit as a member of the state central committee of the Democratic Party meeting at _____ in the year 19__ do hereby designate _____ (name); _____ (post office address); as my proxy with full power to act for me in every respect as a duly qualified member of the state central committee meeting at _____ on the ____ day of _____, 19__.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date _____ Place of execution _____

_____, Member

7186. Any member may attend a meeting of the committee by a proxy that meets the requirements of this article.

7187. Proxies to be recognized by the committee on proxies and credentials shall be signed by the member under penalty of perjury and shall be in the form prescribed in Section 7185.

7188. Revocation or change of proxies shall be recognized by the

committee only upon a personal request made by the member before the committee on proxies and credentials.

Article 4. General Business

7190. The chairperson of this committee shall call the committee to order no later than 10 a.m. of the morning of the first day of the meeting and as soon as practicable thereafter shall cause the roll to be called from the list of members and proxies. The next business in order shall be the election of a temporary chairperson, which may be by acclamation, unless there is a contest, in which event the roll shall be called.

7191. The temporary chairperson, upon election, shall appoint at once a committee on proxies and credentials in accordance with party bylaws from among the members of the state central committee.

7192. This committee shall choose its officers in accordance with party bylaws, except as provided in Section 7194. Its officers shall have the power usually exercised by the officers of those committees insofar as may be consistent with this chapter.

7193. This committee, in accordance with party bylaws, may select from its membership an executive committee to which it may grant all or any portion of its powers and duties.

7194. Except as herein provided, the elective officers of this committee and their terms shall be provided for in the party bylaws.

The elective officers of this committee shall include a state chairperson and a state vice chairperson. The state chairperson and the state vice chairperson shall be persons from the same section, either the northern or the southern section. The positions of the state chairperson and the vice chairperson shall be filled by persons elected alternately from the northern and southern sections of the state, these sections to be defined in the party bylaws. For the purposes of this section, the southern section shall be comprised of the Counties of Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura. The northern section shall be comprised of the remaining counties in the state.

7195. This committee may prescribe dues to be paid by its members in the manner and by the time prescribed by vote of the majority of the members of the committee.

Any member of this committee who fails to pay the dues prescribed by the committee may, upon first notifying the nominee member or holdover member who appointed that member, be removed from the committee in the manner provided by the committee.

7196. This committee shall conduct party campaigns for this party and in behalf of the candidates of this party. It shall appoint committees and appoint and employ campaign directors and perfect whatever campaign organizations it deems suitable or desirable and for the best interest of the party.

7197. A quorum of this committee is a majority of the entire membership, represented either in person or by proxy.

7198. The proceedings at all meetings of this committee shall be governed by any manual of parliamentary procedure designated by the committee.

CHAPTER 4. COUNTY CENTRAL COMMITTEE

Article 1. Members

7200. In each county containing less than five Assembly districts, a county committee shall be elected by supervisor districts, and the number to be elected from any supervisor district shall be determined as follows: There shall be taken the number of votes cast in the supervisor district at the last gubernatorial election for that party's candidate for Governor, or, if the party had no candidate for Governor, for the candidate of the party voted on throughout the state who received the greatest number of votes and who was the candidate of that party alone. This number shall be divided by one-twentieth of the number of votes cast in that county for Governor or, where the party had no candidate for Governor, for the candidate mentioned above. The integer next larger than the quotient obtained by that division shall constitute the number of members of the committee to be elected by that party in that supervisor district.

The committees in counties containing less than five Assembly districts shall be composed of not less than 21 members. If the procedure outlined above would result in less than 21 members being elected for any committee, the number of votes cast for this party's candidate in each supervisor district shall be divided by an amount sufficiently smaller than one-twentieth of the votes cast for Governor in that county as to give a membership in the committee equal to or the nearest amount which is greater than 21 members.

In a county of the eighth class as defined in Section 28029 of the Government Code, the county central committee by resolution may provide for the election of 25 central committee members to represent 25 individual central committee districts. Each member shall reside in the district he or she represents, but shall be elected at large within the Assembly district in which the county central committee district he or she represents is located.

The county central committee shall reapportion itself at least every 10 years, prior to the June primary election of that year. Each district shall be apportioned on the basis of the number of registered Democrats for the June primary in each even-numbered year, with no more than a 10-percent deviation from the average. Each district shall be compact, contiguous, and utilize any natural and neighborhood boundaries. The district boundaries shall not cut across any precinct district's lines as drawn by the elections official for the last general or consolidated election.

7201. Notwithstanding any other provision of law, in a county of the fifth class as defined in Section 28026 of the Government Code, the elected members of the county central committee shall be elected by Assembly districts and shall consist of six members elected from each Assembly district, whether wholly or partly within the county, provided each such member is a resident of the county and of the Assembly district which the member represents. Only a person who is a resident of the county may vote for a candidate for membership to the county central committee and may vote only for candidates seeking to represent the Assembly district in which the voter resides.

7202. In each county containing more than four and less than 20 Assembly districts, a county central committee shall be elected from Assembly districts and shall consist of six members elected from each Assembly district.

7203. In each county containing 20 or more Assembly districts a county central committee shall consist of seven members elected from each Assembly district contained either wholly or partially within the county. In an Assembly district that lies only partially within a county containing 20 or more Assembly districts, the seven members shall be elected from that portion of the Assembly district contained within the county.

7204. In each city and county a county central committee shall be elected by Assembly districts and shall consist of 12 members elected from Assembly District 12, and 12 members elected from Assembly District 13.

7205. Notwithstanding this article, each county central committee by resolution may provide for the election of all or a portion of central committee members to represent individual central committee districts. The member shall reside in the district he or she represents but shall be elected at large within the Assembly district in which the county central committee district he or she represents is located.

The county central committee shall reapportion itself at least every 10 years, prior to the June primary election of that year. Each district shall be apportioned on the basis of the number of registered Democrats for the June primary in each even-numbered year, with no more than a 10-percent deviation from the average. Each district shall be compact, contiguous, and utilize any natural and neighborhood boundaries. The district boundaries shall not cut across any district lines of a precinct as drawn by the elections official for the last general or consolidated election.

7206. In each county the nominee of this party for Senator or the incumbent Senator, the nominees of this party for the Assembly, and any person elected to either the Senate or Assembly at a special election to fill a vacancy in that house, and the nominee of this party for Representative in Congress, and any person elected at a special election to fill a vacancy in the House of Representatives, shall be ex officio members of this committee. If the person elected from one

party at the special election for an Assembly or Senate seat, or for the House of Representatives, shall be other than the nominee of that party for the same office at the prior election, the ex officio membership of the nominee shall expire immediately upon certification by the Secretary of State of the election. Ex officio members shall be entitled to all the rights and privileges, including the right to vote, and shall have the same standing in every way as other members of this committee, except they shall not be entitled to a ballot designation of incumbent upon seeking election to this committee in the next direct primary.

7207. The incumbent or nominee of each of the following offices shall be an ex officio member of the committee in the county in which he or she resides:

(a) Governor.
(b) Lieutenant Governor.
(c) Secretary of State.
(d) Controller.
(e) Treasurer.
(f) Attorney General.
(g) Member of the State Board of Equalization.
(h) United States Senator from California.

His or her rights and privileges shall be the same as those prescribed for other ex officio members in Section 7206.

7208. A committee may authorize any member of that committee, whether elected or ex officio, to appoint an alternate if a member desires to appoint an alternate. An incumbent Member of the Senate or Assembly at the time of the meeting of the committee may appoint an alternate member without authorization from that committee, if the member desires to appoint an alternate.

That alternate member shall have the right to vote only with the written authorization of the member who appointed him or her. An alternate member of a county central committee shall be subject to the rules and regulations of the committee.

An alternate member must meet the same qualifications as the regular member and may vote only in the absence of the member who appointed him or her.

7209. A person shall not be eligible for appointment or election to a committee who is not registered as affiliated with this party at the time of his or her appointment or election.

7210. Each member of a committee, whether elected to the committee or appointed to fill a vacancy, before he or she enters upon the duties of his office, shall take and subscribe the oath or affirmation set forth in Section 3 of Article XX of the Constitution.

The oath or affirmation required by this section may be taken before any officer authorized to administer oaths and no fee shall be charged by any person before whom the oath is taken or subscribed.

7211. In the event that the candidates elected to a committee from a district do not equal the number of party committeepersons to which the district is entitled to be represented, a vacancy or

vacancies exist to the extent of the difference between the number of elected committeepersons and the number of committeepersons by which the district is entitled to be represented. When the vacancy or vacancies exist they shall be filled by the committee to which insufficient members were elected, in the manner provided for in Section 7212.

7212. In the event of the appointment or election to a committee of an ineligible person, or whenever any member of the committee dies, resigns or becomes incapacitated to act, or removes from the jurisdiction of the committee, or ceases to be a member of this party, a vacancy exists which shall be filled by appointment by the committee in which the ineligibility or vacancy occurs. A vacancy shall also exist on a committee when a member is removed from the committee pursuant to Section 7213 or 7215.

7213. Any member of a committee, other than an ex officio member, who misses more than three consecutive regularly called meetings may be removed by a vote of the committee concerned, unless his or her absence is caused by illness or temporary absence from the county on the date of the meeting.

7214. The removal of residence by an elected or appointed member of a committee from the Assembly district or supervisor district from which he or she has been elected or appointed a member of that committee shall constitute his or her automatic resignation from the committee.

7215. A committee may remove any member, other than an ex officio member, who during his or her term of membership affiliates with, or registers as a member of another party, who publicly advocates that the voters should not vote for the nominee of this party for any office, or who gives support or avows a preference for a candidate of another party or candidate who is opposed to a candidate nominated by this party.

7216. Whenever any person is appointed to fill a vacancy on a committee, the chairperson of the committee shall file notices of the appointment with the elections official and the chairperson of the state central committee within 30 days after it is made. The notices shall contain the name and address of the person appointed and the name of the person replaced, and shall indicate the date of the appointment.

Article 2. Elections

7225. At every direct primary election a county central committee shall be elected in each county.

7226. The elections official, no later than January 31 preceding the direct primary, shall compute the number of members of the committee allotted to each Assembly district or supervisor district, as the case may be, pursuant to this article.

7227. In each county the name of each candidate for member of a committee shall appear upon the ballot only upon the filing of a

nomination paper pursuant to Articles 2 (commencing with Section 8020) and 6 (commencing with Section 8100) of Chapter 1 of Part 1 of Division 8, signed in his or her behalf by the voters of the Assembly or supervisorial district in which he or she is a candidate.

7228. If the elections official, on the 73rd day prior to the direct primary election, finds that the number of candidates nominated for election to a committee from an Assembly or supervisorial district does not exceed the number of candidates to be elected from that Assembly or supervisorial district, the designation of the office and the names of the candidates shall not be printed on this party's ballot in the Assembly or supervisorial district, unless there is filed with the elections official, not later than 20 days after the final date for filing nomination papers for the positions, a petition indicating that a write-in campaign will be conducted for the office and signed by 25 registered voters affiliated with the political party involved. In lieu thereof, the board of supervisors shall declare elected the candidates who have been nominated, and those candidates shall be entitled to receive certificates of election in the same manner as other candidates elected to a committee.

7229. Whenever a candidate for election to a committee dies on or before the day of election, and a sufficient number of ballots are marked as being voted for him or her to entitle him or her to election if he or she had lived until after the election, a vacancy exists on the county central committee, which shall be filled by the committee in the same manner as other vacancies are filled.

Article 3. Meetings

7235. All meetings of the committee shall be held in quarters that shall be accessible to persons with disabilities.

Article 4. General Business

7240. A committee shall have charge of the party campaign under general direction of the state central committee or of the executive committee selected by the state central committee.

7241. A committee may make rules and regulations providing:

(a) How officers of the committee may be removed.

(b) How meetings may be called, and any provisions so made shall supersede anything in this chapter to the contrary.

(c) Whether or not proxies may be used and the conditions under which they may be used.

Any rule adopted prior to statutory authorization by any committee by majority vote of the members elected to the committee is hereby validated and made of the same effect as if subsequently adopted.

7242. The committees shall perform any other duties and services for this political party as seem to be for the benefit of the party. They shall continue to function and exist until the election at the

succeeding direct primary and qualification of the members of the new committees.

7243. If the chairperson of a committee refuses to call a meeting, a meeting may be called upon five days' notice by a majority of the members of the committee.

7244. Within five days after a committee meets for its organizational meeting, the newly elected chairperson of the committee shall notify the county elections official of his or her name. The elections official shall mail a certificate to that effect to the Secretary of State.

PART 3. REPUBLICAN PARTY

CHAPTER 1. GENERAL PROVISIONS

7250. This part shall apply to the organization, operation, and function of that political party known as the Republican Party of California.

CHAPTER 2. PRESIDENTIAL ELECTORS

7300. In each year of the general election at which electors of President and Vice President of the United States are to be chosen, the Republican nominees for Governor, Lieutenant Governor, Treasurer, Controller, Attorney General, and Secretary of State, the Republican nominees for United States Senator at the last two United States senatorial elections, the Assembly Republican leader, the Senate Republican leader, all elected officers of the Republican State Central Committee, the National Committeeman and National Committeewoman, the President of the Republican County Central Committee Chairmen's Association, and the chairperson or president of each Republican volunteer organization officially recognized by the Republican State Central Committee shall act as presidential electors, except that Senators, Representatives, and persons holding an office of trust or profit of the United States shall not act as electors. The remaining presidential elector positions, and any vacant positions, shall be filled by appointment of the chairperson of the Republican State Central Committee in accordance with the bylaws of the committee. The name, residence address, and business address of each appointee shall be filed with the Secretary of State by October 1 of the presidential election year. The Republican State Central Committee shall adopt bylaws implementing this section.

CHAPTER 3. STATE CENTRAL COMMITTEE

Article 1. Members

7350. The state central committee shall consist of:

(a) One member for each of the following public officers:
(1) Governor.
(2) Lieutenant Governor.
(3) Treasurer.
(4) Controller.
(5) Attorney General.
(6) Secretary of State.
(7) All members of the State Board of Equalization.
(8) All Senators and Representatives of Congress from California.
(9) All Members of the Legislature.

(b) The chairperson of each county central committee of the party.

(c) Members appointed pursuant to this part.

(d) The national committeeman and national committeewoman of the party.

(e) Any person elected or appointed to fill a vacancy in a partisan office.

(f) The chairperson, vice chairperson, and the immediate past chairperson of this committee.

(g) The president or chairperson, as the case may be, of each statewide, volunteer organization chartered by the state central committee or by the Republican National Committee and approved for this purpose by the executive committee of the state central committee.

Volunteer organizations chartered exclusively by the Republican National Committee and subject to this section shall file an initial petition for approval with the executive committee of the state central committee at least six months prior to the first organizational meeting. The approval, if granted, shall remain in effect indefinitely unless and until it is revoked by the executive committee.

7351. The following are members of the state central committee:

(a) Each officer named in subdivision (a) of Section 7350 who was nominated and elected as a candidate of the party and whose term of office extends beyond the first Monday in December in the case of legislators and the Monday after January 1 in the case of other officers next following the direct primary election, or the appointee or successor appointed, elected, or otherwise designated by law to fill a vacancy in the office of the officer. These members are "holdover members."

(b) (1) Except as provided in paragraph (2), each candidate of the party in whose behalf nomination papers were filed and who was nominated at the direct primary election or at a special primary election by that party. These members are "nominee members." Nominees for an office the term of which extends beyond two years are members until the direct primary election at which nominations for the office are again to be made. If a nominee is elected to the office to which he or she was nominated at the succeeding general election, he or she shall be considered a "holdover member."

(2) (A) If the person most recently nominated to the Senate,

Assembly, or House of Representatives received less votes for the particular office at the ensuing general election than a write-in candidate for the same office, and the write-in candidate is elected to that office at that ensuing general election, the write-in candidate shall, for the purposes of this part, be considered a "holdover member," provided that the write-in candidate's affidavit of registration reflects that that candidate has been affiliated with the party for at least 6 months prior to the general election.

(B) The person described in subparagraph (A) who was nominated to legislative office or to the House of Representatives but who was not elected to the particular office shall be designated as a "nominee member." Any person designated as a "nominee member" pursuant to this subparagraph shall be entitled to all the rights and privileges as provided other nominee members of the committee.

(c) One member appointed for each of the officers named in subdivision (a) of Section 7350, not represented by a "holdover member" nor by a "nominee member" of the party. These members shall be chosen and appointed in the manner provided in subdivision (e). These members are "appointive members."

(d) (1) Except as provided in paragraph (2), if a person qualifies more than once to be a member that person shall be a member by virtue of the most recent qualification. The resulting vacancy shall be filled pursuant to subdivision (e).

(2) If a person qualifies more than once to be a member and one of the qualifications to the committee, which is not the most recent qualification, is by virtue of the person being a holdover member, that person shall be considered a holdover member. In this instance, the resulting vacancy shall be filled pursuant to subdivision (e).

(e) Vacancies in nominee or holdover memberships shall be filled as follows:

(1) If the vacancy occurs in a senatorial or Assembly district situated wholly within the limits of a single county, by appointment by the county central committee of the party in the county. Whenever that vacancy occurs by virtue of the failure to nominate a person affiliated with the party, no person shall be chosen to fill the vacancy who does not reside in the senatorial or Assembly district involved.

(2) If the vacancy occurs in a senatorial or Assembly district comprising two or more counties, by appointment by the county central committee of the party in the county in which the disqualified or deceased member resided, if the vacancy is caused by disqualification or death, or in which the "holdover" or "nominee member" of the opposing party resides, if the vacancy is due to any other cause.

(3) If the vacancy occurs as to a member for a United States Senator from California or as to a member for any of the state officers named in subdivision (a) of Section 7350, by appointment by the state central committee.

(4) If the vacancy occurs as to a member for any Representative in Congress from California, by appointment by the state central committee of a voter who resides within the congressional district to be represented.

(f) A county central committee may authorize its chairperson to appoint members to fill vacancies in the membership which the county central committee has power to fill.

7352. At least 30 days before the first meeting of the state central committee, the state central committee shall send a notice by mail to each person who is a holdover or nominee member which shall inform the member that:

(a) The member shall appoint voters as members of the state central committee and the number of appointments to which he or she is entitled.

(b) The appointment of members of the state central committee shall be made in writing in the form prescribed in Section 7354, signed by the delegate under penalty of perjury, and shall be filed in the office of the state central committee not later than 5 p.m. of the 10th day immediately preceding the Sunday on which the committee is to meet.

(c) Forms of proxy are enclosed, one of which he or she may use himself or herself, and the others he or she shall send with the notices of appointment to the state central committee.

7353. At least 30 days before the first meeting of the state central committee, the state central committee shall send a notice by mail to each county central committee of the Republican Party:

(a) Informing it that the chairperson of the county central committee, who is elected immediately prior to the meeting of the state central committee for which the notice is sent, shall appoint members of the state central committee and the number of appointments to which he or she is entitled.

(b) Giving any other information as is required of a notice sent pursuant to Section 7352.

7354. The state central committee shall enclose with the notice required by Section 7352 one copy of the following statement for appointment of members of the state central committee, which shall be in substantially the following form:

APPOINTMENT OF MEMBERS OF THE STATE CENTRAL COMMITTEE OF THE REPUBLICAN PARTY MEETING AT SACRAMENTO, IN THE YEAR 19__

I, _____, duly qualified as a member of the state central committee of the Republican Party at Sacramento in the year 19__ by reason of my (appointment by the _____ central committee) (nomination) (election to the office of _____) (strike out parts inapplicable) on the _____ day of _____, 19__ upon the Republican ticket, do hereby appoint the following voters, who shall be members of the state central committee:

Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.
Date _____ Place of execution _____

_____
(Delegate)

7355. A holdover member shall make appointments to the membership of this committee of one voter of the same sex and two voters of the opposite sex, and shall appoint five additional voters without regard to sex.

7356. The national committeeman and national

committeewoman of the party, and the chairperson, vice chairperson, and immediate past chairperson of this committee, shall each appoint three voters to the membership of this committee, two of whom shall be of the opposite sex. The appointment shall be in addition to any other appointments authorized by this chapter.

7357. Appointive members and nominee members who were not elected at the general election shall appoint three voters to the membership of this committee, two of whom shall be of the opposite sex.

7358. A chairperson of a county central committee may appoint persons to membership on the state central committee meeting immediately following his or her election as chairperson without regard to sex.

(a) In counties containing three or more Assembly districts he or she may appoint three voters to membership.

(b) In counties containing less than three Assembly districts but at least one entire Assembly district he or she may appoint two voters to membership.

(c) In counties containing less than one entire Assembly district he or she may appoint one voter to membership.

7359. Any person who is a member of this committee by reason of having been elected or appointed to fill a vacancy in a partisan office, shall within 60 days of his or her election or appointment, appoint additional members to the committee in the same manner as holdover members make those appointments.

7360. Appointments of members to this committee shall be made in writing signed by the member under penalty of perjury and delivered to the state central committee not later than 5 p.m. of the 10th day immediately preceding the Sunday in which the first meeting of this committee is to be held.

7361. Each holdover, nominee, or appointive member shall send a notice by mail to each person whom he or she has appointed as a member of this committee which will inform him or her of all of the following:

(a) He or she is a member of the committee.

(b) The committee will meet in Sacramento and the date of the meeting.

(c) The meeting may be attended either in person or by proxy.

(d) Every proxy shall be filed in the office of the state central committee not later than 5 p.m. of the day preceding the meeting of the committee.

(e) The proxy shall be in writing, signed by the member under penalty of perjury.

Each appointing member shall enclose with each notice one copy of the form of proxy sent to that delegate by the state central committee.

7362. A person is not eligible for appointment to this committee if he or she is not registered as affiliated with this party at the time of his or her appointment.

7363. This committee may remove any appointive member who during his or her term of membership affiliates with or registers as a member of another party, publicly advocates that the voters should not vote for the nominee of the party for any office, or publicly gives support to or avows a preference for a candidate of another party or candidate who is opposed to a candidate nominated by this party.

7364. In the event of the appointment of an ineligible person, or whenever any member of this committee dies, resigns, or becomes incapacitated to act, or removes from the jurisdiction of the committee, or ceases to be a member of the committee's party, a vacancy exists that shall be filled in the manner prescribed in Section 7365. A vacancy shall also exist on this committee when a member is removed from the committee pursuant to Section 7363, and the vacancy shall be filled in the manner prescribed in Section 7365, the member to serve the remainder of the unexpired term of the member removed.

7365. Should a member appointed to membership pursuant to Section 7355, 7357, or 7358, cease to be a member for any of the reasons specified in Section 7364, the vacancy shall be filled by the person who appointed him or her, unless that person is himself or herself no longer a member of this committee or indicates that he or she does not wish to fill the vacancy, in which instances the committee shall do so.

Notice shall be given by the committee to a person entitled to fill a vacancy under this section as soon as possible after the occurrence of the vacancy and vacancies shall be filled not less than three days preceding the first meeting of the committee. The committee shall notify in writing the state chairperson of all appointments made pursuant to this section.

7366. In the event the appointment of alternate or associate members is authorized, this committee shall supply forms to the members for the appointment of those members. The forms shall be in substantially the same language as set forth in Section 7354, and shall contain suitable spaces wherein there can be listed the addresses and the numbers of the congressional, Assembly, and senatorial districts in which the appointees reside.

Article 2. Proxies

7375. Any member may attend a meeting of this committee by a proxy that satisfies the requirements of this article.

7376. The state central committee shall enclose with the notice required by Section 7352 copies of the following form of proxy for attendance at the meeting of the state central committee:

PROXY FOR ATTENDANCE AT THE STATE CENTRAL COMMITTEE OF THE REPUBLICAN PARTY MEETING AT SACRAMENTO, IN THE YEAR 19__

I, _____, duly qualified to sit as a member of the state central committee of the Republican Party meeting at Sacramento in the year 19__ do hereby designate _____ (name); _____ (post office address); as my proxy with full power to act for me in every respect as a duly qualified member of the state central committee meeting at Sacramento on the ____ day of _____, 19__.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date _____ Place of execution _____

_____, Member

7377. Proxies to be recognized by the committee on proxies and credentials shall be signed by the member under penalty of perjury and shall be in the form prescribed in Section 7376.

7378. No proxy shall be recognized unless filed in the office of the state central committee not later than 5 p.m. of the day preceding the state committee meeting.

7379. Revocation or change of proxies shall be recognized by the committee on proxies and credentials only upon a personal request made by the member who granted the proxy before the committee.

Article 3. General Business

7380. The chairperson of this committee shall call the committee to order at 10 a.m. of the first meeting and, as soon as practicable thereafter, shall cause the roll to be called from the list of members and proxies. The next business in order shall be the election of a temporary chairperson, which may be by acclamation or, if there is a contest, by rollcall or any other method prescribed by this committee.

7381. The temporary chairperson, upon election, shall appoint at once a committee on proxies and credentials consisting of one member from each senatorial district, selected from among the members of this committee certified by the Secretary of State.

7382. This committee shall choose its officers by rollcall vote or any other method prescribed by this committee, except that in each case where there is no contest for the office, the officer may be elected by acclamation. Its officers shall have the power usually exercised by those committees and the officers thereof insofar as may be consistent with this division.

7383. This committee may select from its membership an executive committee to which it may grant all or any portion of its powers and duties.

7384. The chairperson of this committee shall serve a two-year term, but shall not succeed himself or herself, and the chairpersonship shall alternate each biennium between the northern and southern territories.

The southern territory consists of the following counties: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa

Barbara, and Ventura. The northern territory consists of the remaining counties.

7385. This committee shall conduct party campaigns for this party and in behalf of the candidates of this party. It shall appoint committees and appoint and employ campaign directors and perfect whatever campaign organizations it deems suitable or desirable and for the best interest of the party.

7386. A quorum of this committee is a majority of the entire membership, represented either in person or by proxy.

7387. The proceedings at all meetings of this committee shall be governed by any manual of parliamentary procedure designated by the committee.

7388. The committee shall adopt the state party platform according to the bylaws of the Republican Party.

7389. (a) The state central committee may prohibit or limit the power of county central committees established pursuant to Chapter 4 (commencing with Section 7400) to endorse, support, or oppose any candidate for nomination by the Republican Party for partisan office in the direct primary election.

(b) The superior court, in any case brought before it by the state central committee or by any registered voter, may issue a temporary or permanent restraining order or injunction to prohibit the endorsement, support, or opposition by a county central committee of any candidate for nomination by the Republican Party for partisan office in the direct primary election, if the endorsement, support, or opposition is in violation of the bylaws or rules of the state central committee. All cases of this nature shall be in a preferred position for purposes of trial and appeal, so as to assure the speedy disposition thereof.

CHAPTER 4. COUNTY CENTRAL COMMITTEE

Article 1. Members

7400. In each county containing less than five Assembly districts, a county central committee shall be elected by supervisor districts, and the number to be elected from any supervisor district shall be determined as follows: There shall be taken the number of votes cast in the supervisor district at the last gubernatorial election for that party's candidate for Governor, or, if the party had no candidate for Governor, for the candidate of the party voted on throughout the state who received the greatest number of votes and who was the candidate of that party alone. This number shall be divided by one-twentieth of the number of votes cast in that county for Governor or, where the party had no candidate for Governor, for the candidate mentioned above. The integer next larger than the quotient obtained by such division shall constitute the number of members of the committee to be elected by that party in that supervisor district.

The committees in counties containing less than five Assembly districts shall be composed of not less than 21 members. If the procedure outlined above would result in less than 21 members being elected for any committee, the number of votes cast for this party's candidate in each supervisor district shall be divided by an amount sufficiently smaller than one-twentieth of the votes cast for Governor in that county as to give a membership in the committee equal to or the nearest amount which is greater than 21 members.

7401. In each county containing more than four and less than 20 Assembly districts, a county central committee shall be elected from Assembly districts and shall consist of six members elected from each Assembly district.

7402. In each county containing 20 or more Assembly districts a county central committee shall consist of seven members elected from each Assembly district contained either wholly or partially within the county. In an Assembly district that lies only partially within a county containing 20 or more Assembly districts, the seven members shall be elected from that portion of the Assembly district contained within the county.

7403. In each city and county, a county central committee shall be elected by Assembly districts and shall consist of 13 members elected from Assembly District 12 and 12 members elected from Assembly District 13.

7404. (a) In each county, the nominee of the party for State Senator, the nominees of the party for the Assembly, and any person nominated to either the Senate or Assembly at a special election to fill a vacancy in the house, and the nominee of the party for Representative in Congress shall be ex officio members of this committee. If the person most recently nominated or elected from one party at the special election for an Assembly or Senate seat, or for the House of Representatives shall be other than the nominee of that party for the same office at the earlier election, the ex officio membership of the latter nominee shall expire immediately upon certification by the Secretary of State of the nomination or, if there is no runoff, the election of the person most recently nominated or elected. Ex officio members shall be entitled to all the rights and privileges, including the right to vote, and shall have the same standing in every way as other members of this committee, except they shall not be entitled to a ballot designation of incumbent upon seeking election to this committee in the next direct primary. A person shall be entitled to ex officio membership upon receiving a certificate of nomination from the Secretary of State pursuant to Section 8147, at which time the term of the former nominee shall expire.

(b) If the person most recently nominated to the Senate, Assembly, or House of Representatives received less votes for the particular office at the ensuing general election than a write-in candidate for the same office, and the write-in candidate is elected to that office the write-in candidate shall, for purposes of this part,

be considered the ex officio member of each affected county, provided that the write-in candidate's affidavit of registration reflects that that candidate has been affiliated with the party for at least six months prior to the general election.

(c) If a write-in candidate is entitled to ex officio membership on each affected county central committee pursuant to subdivision (b), each affected county central committee shall, designate the party nominee described in subdivision (b) as an additional ex officio member to its committee. Any person designated as an ex officio member under this subdivision shall be entitled to all the rights and privileges as other ex officio members of the committee.

7405. The nominee for each of the following offices shall be an ex officio member of the committee in the county in which he or she resides:

(a) Governor.

(b) Lieutenant Governor.

(c) Treasurer.

(d) Controller.

(e) Attorney General.

(f) Secretary of State.

(g) Member of the State Board of Equalization.

(h) United States Senator from California. His or her rights and privileges, including the right to membership, shall be the same as those prescribed for other ex officio members in Section 7404.

7406. A committee may authorize each elected member and each ex officio member of that committee to appoint an alternate member. An ex officio member who is also an incumbent officeholder of any of the offices listed in Sections 7404 and 7405 at the time of the meeting of the committee may appoint an alternate member without authorization from that committee, if the member desires to appoint an alternate.

The alternate member shall have the right to vote only with the written authorization of the member who appointed him or her. An alternate member of a committee shall be subject to the rules and regulations of the committee.

An alternate member must meet the same qualifications as the regular member, and may vote only in the absence of the member who appointed him or her, except that an alternate member appointed by an incumbent Senator, Member of the Assembly, or Representative in Congress need not reside in the district of the appointing power but need only reside in the county of jurisdiction of the committee.

7407. A person shall not be eligible for appointment or election to a committee who is not registered as affiliated with this party at the time of his or her appointment or election.

7408. Each member of a committee, whether elected to the committee or appointed to fill a vacancy, before he or she enters upon the duties of his or her office, shall take and subscribe the oath or affirmation set forth in Section 3 of Article XX of the Constitution.

The oath or affirmation required by this section may be taken before any officer authorized to administer oaths and no fee shall be charged by any person before whom the oath is taken or subscribed.

7409. In the event that the candidates elected to a committee from a district do not equal the number of party committeemembers to which that district is entitled to be represented, a vacancy or vacancies exist to the extent of the difference between the number of elected committeemembers and the number of committeemembers by which the district is entitled to be represented. When a vacancy or vacancies exist they shall be filled by the committee to which insufficient members were elected, in the manner provided for in Section 7410.

7410. In the event of the appointment or election to a committee of an ineligible person, or whenever any member of the committee dies, resigns or becomes incapacitated to act, or removes from the jurisdiction of the committee, or ceases to be a member of this party, a vacancy exists which shall be filled by appointment by the committee in which the ineligibility or vacancy occurs. A vacancy shall also exist on a committee when a member is removed from the committee pursuant to Section 7411 or 7413.

7411. Any member of a committee, other than an ex officio member, who misses four regularly called meetings within one 12-month period shall be removed from the committee concerned, unless his or her absence is caused by illness or temporary absence from the county on the date of the meeting.

7412. The removal of residence by an elected or appointed member of a committee from the Assembly district or supervisor district from which he or she has been elected or appointed a member of that committee shall constitute his or her automatic resignation from the committee.

7413. A committee may remove any member, other than an ex officio member, who during his or her term of membership affiliates with, or registers as a member of another party, who publicly advocates that the voters should not vote for the nominee of this party for any office, or who gives support or avows a preference for a candidate of another party or candidate who is opposed to a candidate nominated by this party.

7414. Whenever any person is appointed to fill a vacancy on a committee, the chairperson of the committee shall file notices of the appointment with the elections official and the chairperson of the state central committee within 30 days after it is made. The notices shall contain the name and address of the person appointed and the name of the person replaced, and shall indicate the date of the appointment.

Article 2. Election

7420. At every direct primary election a county central committee shall be elected in each county.

7421. The elections official, no later than January 31 preceding the direct primary, shall compute the number of members of the committee allotted to each Assembly district or supervisor district, as the case may be, pursuant to this article.

7422. In each county the name of each candidate for member of a committee shall appear upon the ballot only upon the filing of a nomination paper pursuant to Articles 2 (commencing with Section 8020) and 6 (commencing with Section 8100) of Chapter 1 of Division 8, signed on his or her behalf by the voters of the Assembly or supervisorial district in which he or she is a candidate.

7423. If the elections official, on the 73rd day prior to the direct primary election, finds that the number of candidates nominated for election to a committee from an Assembly or supervisorial district does not exceed the number of candidates to be elected from that Assembly or supervisorial district, the designation of the office and the names of the candidates shall not be printed on this party's ballot in the Assembly or supervisorial district, unless there is filed with the elections official, not later than 20 days after the final date for filing nomination papers for the positions, petition indicating that a write-in campaign will be conducted for the office, and signed by 25 registered voters affiliated with the political party involved. In lieu thereof, the board of supervisors shall declare elected the candidates who have been nominated, and those candidates shall be entitled to receive certificates of election in the same manner as other candidates elected to a committee.

7424. Whenever a candidate for election to a committee dies on or before the day of election, and a sufficient number of ballots are marked as being voted for him or her to entitle him or her to election if he or she had lived until after the election, a vacancy exists on the county central committee, which shall be filled by the committee in the same manner as other vacancies are filled.

Article 3. Meetings

7430. The Department of General Services shall permit any committee that desires to do so to hold meetings in a state building within the county, at least one of which meetings each month shall be without charge.

7431. All meetings of the committee shall be held in quarters that shall be accessible to persons with disabilities.

Article 4. General Business

7440. A committee shall have charge of the party campaign under general direction of the state central committee or of the executive committee selected by the state central committee.

7441. At the first organizational meeting, a committee shall organize by selecting a chairperson, a secretary, and any other officers and committees as it deems necessary for carrying on the

affairs of this party.

7442. A committee may make rules and regulations providing for any of the following:

(a) How officers of the committee may be removed.

(b) How meetings may be called, and any provisions so made shall supersede anything in this chapter to the contrary.

(c) Whether or not proxies may be used and the conditions under which they may be used.

Any rule adopted prior to statutory authorization by any county central committee by majority vote of the members elected to the committee is hereby validated and made of the same effect as if subsequently adopted.

7443. The committees shall perform any other duties and services for this political party as seem to be for the benefit of the party. They shall continue to function and exist until the election at the succeeding direct primary and qualification of the members of the new county central committees.

7444. If the chairperson of a committee refuses to call a meeting, a meeting may be called upon five days' notice by a majority of the members of the committee.

Within five days after a committee meets for its organizational meeting, the newly elected chairperson of the committee shall notify the elections official of his or her name. The elections official shall mail a certificate to that effect to the Secretary of State.

Article 5. District Committees

7460. This article applies only to committees established by Assembly districts or supervisorial districts within a county pursuant to the bylaws of the county central committee of that county.

7461. The committees shall be called county Assembly district committees or county supervisorial district committees.

7462. Each committee shall consist of the persons elected to the county central committee of a single Assembly or supervisorial district.

7463. The district committees of a county and the ex officio members of the county central committee constitute the county central committee of that county.

7464. The district committees may elect any officers and undertake any action as the bylaws of the county central committee of which they are a part provide.

7465. In the event that the candidates elected to a district committee do not equal the number of party committeemembers by which the district is entitled to be represented under Article 1 (commencing with Section 7400), a vacancy or vacancies exist to the extent of the difference between the number of elected committeemembers and the number of committeemembers by which the district is entitled to be represented. When a vacancy or vacancies exist, they shall be filled by the district committee to which

insufficient members were elected.

7466. In the event of the appointment or election to a district committee of an ineligible person, or whenever any member of the committee dies, resigns or becomes incapacitated to act, is removed from office, or removes from the jurisdiction of the district committee, or ceases to be a member of this party, a vacancy exists which shall be filled by appointment by the district committee in which the ineligibility or vacancy occurs.

7467. Any member of a district committee who misses more than three consecutive regularly called meetings of the county central committee may be removed by a vote of that district committee concerned, unless his or her absence is caused by illness or temporary absence from the county on the date of the meeting.

7468. The removal of residence by an elected or appointed member of a district committee from the Assembly district or supervisorial district from which he or she has been elected or appointed a member of that committee shall constitute his or her automatic resignation from that committee.

7469. A district committee shall remove any member of that committee who is required to be removed under Section 7413.

7470. Whenever any person is appointed to fill a vacancy on a district committee, the district committee shall notify within 10 days the chairperson of the county central committee who shall file a notice of the appointment with the elections official within 30 days after it is made. The notices shall contain the name and address of the person appointed and the name of the person replaced, and shall indicate the date of the appointment.

PART 4. AMERICAN INDEPENDENT PARTY

CHAPTER 1. GENERAL PROVISIONS

7500. This part shall apply to the organization, operation, and functions of that political party known as the American Independent Party of California.

CHAPTER 2. STATE CONVENTION

Article 1. Delegates

7550. The state convention shall consist of one delegate for each of the following officers:

(a) Governor.
(b) Lieutenant Governor.
(c) Treasurer.
(d) Controller.
(e) Attorney General.
(f) Secretary of State.
(g) All members of the State Board of Equalization.

(h) All Senators and Representatives of Congress from California.
(i) All Members of the Legislature.
(j) National committeemen and committeewomen.
(k) Chairperson and state vice chairperson of the state central committee.

7551. The state convention shall be composed of the following delegates:

(a) Each officer named in Section 7550 who was nominated and elected as a candidate of the party and whose term of office extends beyond the first Monday in December in the case of legislators and the Monday after January 1 in the case of other officers next following the direct primary election, or the appointee or successor appointed, elected, or otherwise designated by law to fill a vacancy in the office of any such officer. These delegates are "holdover delegates."

(b) Each candidate of the party in whose behalf nomination papers were filed and who was nominated at the direct primary election by that party. These delegates are "nominee delegates." Nominees for an office the term of which extends beyond two years are delegates to each succeeding state convention until that following the direct primary election at which nominations for the office are again to be made. If a candidate is a "nominee delegate" to the state convention held in the year in which he or she is nominated, and is elected to the office at the succeeding general election, he or she shall be considered a "holdover delegate" to the state convention of his or her party in the next odd-numbered year, if his or her party is required to hold the convention.

(c) One delegate appointed for each of the officers named in Section 7550 not represented by a "holdover delegate" nor by a "nominee delegate" of the party. These delegates shall be chosen and appointed in the manner provided in this chapter for filing vacancies in the state convention and shall be known as "appointive delegates."

7552. As soon as practicable after the direct primary election, the Secretary of State shall prepare a list of names of all delegates to the convention qualified under the provisions of this part. He or she shall thereupon send a notice by mail to each delegate that shall inform the delegate that:

(a) He or she is a delegate to the state convention.
(b) The convention meets at Sacramento and the date of the meeting.

7553. The Secretary of State shall prepare, for each state convention, an alphabetical roll of the delegates who have filed their credentials in the manner and time provided in this part.

7554. On the convening of a state convention of a political party the Secretary of State shall deliver to the chairperson of the central committee of that party or, in the absence of the chairperson, to the acting presiding officer of the convention both of the following:

(a) The appointive delegates' credentials.
(b) The alphabetical roll of the delegates to the convention.

7555. Membership in the state convention shall not be granted to any party nominee unless he or she is registered as being a member of this party.

7556. A vacancy exists in the membership under any of the following circumstances:

(a) When there is no "holdover delegate" nor "nominee delegate" of the party.

(b) When any nominee is disqualified for membership under the provisions of Section 7555 or for any other reason stated in this division.

(c) When no nomination for an elective office has been made.

(d) When a delegate dies prior to the convention.

7557. Delegates shall be appointed to fill vacancies in the membership as follows:

(a) If the vacancy occurs in a senatorial or Assembly district situated wholly within the limits of a single county, by appointment by the county central committee of the party in the county. Whenever a vacancy occurs by reason of the failure to nominate a person affiliated with the party, no person shall be chosen to fill the vacancy who does not reside in the senatorial or Assembly district involved.

(b) If the vacancy occurs in a senatorial or Assembly district comprising two or more counties, parts of two or more counties, or one or more counties and parts of one or more counties, by appointment by the county central committee representing more voters affiliated with the American Independent Party than does any other county central committee in the district.

(c) If there is no county central committee qualified to act, or the qualified county central committee fails to act, under the provisions of subdivision (a) or (b) of this section, the appointment shall be made by the state central committee of the party.

(d) If the vacancy occurs as to a delegate for a United States Senator from California or as to a delegate for any of the state officers named in Section 7550 by appointment by the state central committee of the party.

(e) If the vacancy occurs as to a delegate for any Representative in Congress from California, by appointment by the state central committee of the party of a voter who resides within the congressional district to be represented.

7558. Vacancies filled by a county central committee pursuant to subdivision (a) or (b) of Section 7557 shall be filled and filed with the office of the Secretary of State by 5 p.m. of the first Monday after the second Tuesday in July prior to the state convention.

Vacancies filled by the state central committee pursuant to subdivision (c), (d), or (e) of Section 7557, shall be filled and filed with the office of the Secretary of State by 5 p.m. of the second Monday after the second Tuesday in July prior to the state convention.

7559. A county central committee may authorize its chairperson

to appoint delegates to fill vacancies in the membership of party state conventions that the county central committee has power to fill.

7560. The appointment of delegates pursuant to Section 7557 and filed with the office of the Secretary of State pursuant to Section 7558 shall be in writing signed by the chairperson and the secretary of the committee that has the power to make the appointment.

7561. If a person is a delegate to the state convention and qualified independently of that fact to be a delegate to the same state convention, he or she shall be a delegate by reason of the most recent election at which he or she becomes a delegate. The resulting vacancy shall be filled pursuant to Section 7557.

Article 2. Meetings

7570. The state convention shall meet biennially, at a location designated by the state central committee, at 10 a.m. on a Saturday following the direct primary election, but in no event later than August 15. At least 30 days before the selected date, the state central committee shall notify the Secretary of State of the date and location of the convention.

Article 3. General Business

7575. The convention shall be called to order by the chairperson of the state central committee at 10 a.m. of the last Saturday in August next following the direct primary election. It shall at once proceed to the election of a chairperson. The election shall be by alphabetical rollcall, if requested by a petition signed by 50 members. The convention shall elect other officers as the convention may determine.

7576. The chairperson shall appoint a committee consisting of one delegate from each senatorial district, which shall serve as the committee on credentials of the convention, and he or she shall appoint other committees as the convention may direct.

7577. The convention, upon election of permanent officers, shall adopt a state platform for this party. This platform shall be made public upon its adoption.

7578. In each year of the general election at which electors of President and Vice President of the United States are to be chosen, the convention shall also nominate as the candidates of its party as many electors of President and Vice President of the United States as the state is then entitled to, and shall certify the name of each elector nominated, and his or her residence address to the Secretary of State.

7579. The vote on any issue at the convention, including the election of officers, may be by rollcall or any other method as may be prescribed by the convention.

7580. The proceedings at the convention shall be governed by any manual of parliamentary procedure designated by the

convention.

CHAPTER 3. STATE CENTRAL COMMITTEE

Article 1. Members

7600. The state central committee shall consist of all of the following persons:

(a) All delegates to the state convention.

(b) The chairperson of each county central committee of the party.

(c) Members appointed pursuant to this part.

(d) Any person nominated to fill a vacancy in a partisan office in a special election.

7601. At least 30 days before the first meeting of the state central committee, the Secretary of State shall send a notice by mail to each person who is a delegate to the party's state convention, that shall inform the delegate of all of the following:

(a) The delegate shall appoint voters as members of the state central committee and the number of appointments to which he or she is entitled.

(b) The appointment of members of the state central committee shall be made in writing in the form prescribed in Section 7602, signed by the delegate under penalty of perjury and shall be filed in the office of the Secretary of State not later than 5 p.m. of the Tuesday immediately preceding the Sunday on which the committee is to meet.

(c) Forms of proxy are enclosed, one of which he or she may use himself or herself, and the others he or she shall send with the notices of appointment to the state central committee.

7602. The Secretary of State shall enclose with the notice required by Section 7601 one copy of the following statement for appointment of members of the state central committee, which shall be in substantially the following form:

APPOINTMENT OF MEMBERS OF THE STATE CENTRAL COMMITTEE OF THE AMERICAN INDEPENDENT PARTY MEETING AT SACRAMENTO IN THE YEAR 19__

I, _____, duly qualified as a delegate to the state convention of the American Independent Party at Sacramento in the year 19__ by virtue of my (appointment by the _____ central committee) (nomination) (election to the office of _____) (strike out parts inapplicable) on the ____ day of _____, 19__ upon the American Independent Party ticket, do hereby appoint the following voters, who shall be members of the state central committee:

Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address
Name	Senatorial, Congressional, Assembly district	Post office address

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.
Date _____ Place of execution _____

_____
(Delegate)

7603. Each delegate to the state convention shall appoint to membership on this committee one voter of the same sex as the delegate and two voters of the opposite sex. These appointments when so made shall be absolute.

7604. A delegate to the state convention who at the date of that state convention is the incumbent of any of the offices listed in Section 7550 may appoint, without regard to sex, two additional voters to membership on this committee of this party.

7605. Any person who is a member of this committee by virtue of having been nominated to fill a vacancy in a partisan office in a special election, shall within 60 days of the special election, appoint members to this committee in the same manner as delegates to the state convention make those appointments.

7606. Appointments of members to this committee shall be made in writing signed by the delegate under penalty of perjury and delivered to the Secretary of State not later than 5 p.m. of the Tuesday immediately preceding the Sunday on which the first meeting of the committee is to be held.

7607. The Secretary of State shall provide a duplicate copy of the appointment form to each delegate, that shall be used by the delegate to file his or her appointments with the state chairperson of the political party with which the delegate is affiliated. The filing

shall be made at the same time as the filing of the appointments in the office of the Secretary of State.

7608. Each delegate to the state convention shall send a notice by mail to each person whom he or she has appointed as a member of this committee, that will inform him or her that:

(a) He or she is a member of the committee.

(b) The committee will meet in Sacramento and the date of the meeting.

(c) The meeting may be attended either in person or by proxy.

(d) Every proxy shall be filed in the office of the Secretary of State not later than 12 noon of the day preceding the meeting of the committee.

(e) The proxy shall be in writing, and signed by the member under penalty of perjury.

Each delegate shall enclose with each notice one copy of the form of proxy sent to that delegate by the Secretary of State.

7609. A person is not eligible for appointment to this committee if he or she is not registered as affiliated with this party at the time of his or her appointment.

7610. This committee may remove any member who, during his or her term of membership, affiliates with or registers as a member of another party. This committee may also remove any appointed member who publicly advocates that the voters should not vote for the nominee of the party for any office, or who publicly gives support to or avows a preference for a candidate of another party who is opposed to a candidate nominated by this party.

7611. In the event of the appointment of an ineligible person, or whenever any member of this committee dies, resigns, or becomes incapacitated to act, or removes from the jurisdiction of the committee, or ceases to be a member of the committee's party, a vacancy exists that shall be filled in the manner prescribed in Section 7612. A vacancy shall also exist on this committee when a member is removed from the committee pursuant to Section 7642, or Section 7610, and the vacancy shall be filled in the manner prescribed in Section 7612, the member to serve the remainder of the unexpired term of the member removed.

7612. Should a member appointed to membership pursuant to Section 7603 or 7604 cease to be a member for any of the reasons specified in Section 7611, the vacancy shall be filled by the person who appointed him or her, unless that person is himself or herself no longer a member of this committee or indicates that he or she does not wish to fill the vacancy, in which instances the committee shall do so.

Notice shall be given by the committee to a person entitled to fill a vacancy under this section as soon as possible after the occurrence of the vacancy. The committee shall notify in writing the Secretary of State of all appointments made pursuant to this section.

7613. In the event the appointment of alternate or associate members is authorized by statute or the rules of the committee, this

committee shall supply forms to the members for the appointment of those members. The forms shall be in substantially the same language as set forth in Section 7602, and shall contain suitable spaces wherein there can be listed the addresses and the numbers of the congressional, Assembly, and senatorial districts in which the appointees reside.

7614. Each delegate to the state convention may appoint three voters as associate members of this committee. An associate member shall have those privileges and obligations as are given to him or her by the rules of the committee but shall not be able to vote.

Article 2. Meetings

7620. The committee shall convene in the same community where the state convention is held, at 10 a.m. on the Sunday following the state convention. At least 30 days before the meeting, the state central committee shall notify the Secretary of State of the date and location of the meeting.

7621. The Secretary of State shall deliver to the chairperson of the state central committee, as soon as possible on the day of the first meeting of the state central committee, a certified alphabetical list of the names of the members of the state central committee. The membership list shall be arranged in alphabetical order by senatorial districts. The senatorial, Assembly, and congressional district of each appointed member listed shall be indicated.

Article 3. Proxies

7625. The Secretary of State shall enclose with the notice required by Section 7601 copies of the following form of proxy for attendance at the meeting of the state central committee:

PROXY FOR ATTENDANCE AT THE STATE CENTRAL COMMITTEE OF THE AMERICAN INDEPENDENT PARTY MEETING AT SACRAMENTO, IN THE YEAR 19__

I, _____, duly qualified to sit as a member of the state central committee of the American Independent Party meeting at Sacramento in the year 19__ by reason of (being a delegate to the state convention) (my appointment thereto by _____; this appointment having been duly filed in the office of the Secretary of State) (strike out part inapplicable) do hereby designate _____ (name); _____ (post office address); as my proxy with full power to act for me in every respect as a duly qualified member of the state central committee meeting at Sacramento on the ____ day of _____, 19__.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date _____ Place of execution _____

_____, Member

7626. No proxy shall be recognized unless filed in the office of the Secretary of State not later than 12 o'clock noon of the day preceding the state central committee meeting.

7627. When a proxy is filed with the Secretary of State he or she shall immediately forward it to the chairperson of the state central committee or his or her designate.

7628. Revocation or change of proxies shall be recognized by this committee on proxies and credentials only upon a personal request made by the member before the committee.

Article 4. General Business

7635. The chairperson of this committee shall call the committee to order at 10 a.m. on the day of first meeting. The next business in order shall be the election of a temporary chairperson, which may be by acclamation, unless there is a contest, in which event the roll shall be called.

7636. The temporary chairperson, upon election, shall immediately appoint a committee on proxies and credentials, consisting of one member from each senatorial district, selected from among the members of this committee certified by the Secretary of State.

7637. This committee shall choose its officers by rollcall vote, poll of senatorial district delegations, or any other method as may be prescribed by the committee. Its officers shall have the power usually exercised by the officers of those committees insofar as may be consistent with this chapter.

7638. This committee may select from its membership an executive committee, to which it may grant all or any portion of its powers and duties. If this committee grants any portion of its powers to an executive committee, it shall provide for the election to its executive committee of two members, one of each sex, from each senatorial district delegation. A senatorial district delegation shall consist only of those state central committee members who reside within that senatorial district.

7639. The state central committee or its executive committee shall designate by resolution or bylaw the national committee or party organization with which the American Independent Party is affiliated and shall file a copy of the resolution or bylaw with the Secretary of State. In the event of controversy over the national affiliation of the party, the most recent resolution or bylaw filed shall be determinative.

7640. The chairperson of this committee shall serve a two-year term, but shall not succeed himself or herself.

7641. The elective officers provided for in the bylaws of this committee shall serve for two-year terms.

7642. This committee may prescribe dues to be paid by those

persons specified in Section 7600 in the manner and by the time prescribed by vote of the majority of the members of the committee. The dues charged shall not exceed twenty-four dollars ($24) per year.

Any member of this committee who fails to pay the dues prescribed by the committee may, upon first notifying the delegate to the state convention who appointed that member, be removed from the committee in the manner provided by the committee.

7643. This committee shall conduct party campaigns for this party and in behalf of the candidates of this party. It shall appoint committees and appoint and employ campaign directors and perfect whatever campaign organizations it deems suitable or desirable and for the best interest of the party.

This committee shall have power to appoint interim county central committees in all counties in which the voters have not elected one or more county central committee members in the direct primary preceding the organization of this committee. Persons appointed to interim county central committees pursuant to this section shall meet the qualifications otherwise required by Chapter 4 (commencing with Section 7650) for appointees to fill vacancies on county central committees. Notice of all appointments pursuant to this section shall be filed by the state central committee with the elections official of the county for which that interim county central committee is appointed. Interim county central committees appointed pursuant to this section shall have all of the powers and privileges afforded county central committees by the provisions of Chapter 4 (commencing with Section 7650), but members of interim county central committees shall not be designated as incumbents on the ballot in the succeeding primary election.

7644. A quorum of this committee is a majority of the entire membership, represented either in person or by proxy.

7645. The proceedings at all meetings of this committee shall be governed by any manual of parliamentary procedures designated by the committee.

CHAPTER 4. COUNTY CENTRAL COMMITTEE

Article 1. Members

7650. In each county containing less than five Assembly districts or portions thereof, except the City and County of San Francisco, a county central committee of at least 25 members shall be elected by supervisor districts, and the number elected from each supervisor district shall be determined as follows:

The number of voters registered as members of the American Independent Party, as reflected in the statement of voters and their political affiliations transmitted to the Secretary of State on or before the 135th day before any primary election, shall be divided by 25. The number thus derived shall be divided into the number of American

Independent Party voters registered in each supervisor district, and the integer nearest the resulting quotient shall be the number of central committee members to be elected to represent that supervisor district.

7651. In each county containing more than four Assembly districts or portions thereof, and the City and County of San Francisco, a county central committee shall be elected by Assembly districts, and the number elected shall be that number derived by multiplying 7 times the number of Assembly districts in whole or in part within the county. The number elected from each Assembly district shall be determined as follows:

The number of voters registered as members of the American Independent Party, as reflected in the statement of voters and their political affiliations transmitted to the Secretary of State on or before the 135th day before any primary election, shall be divided by the total number of members to be elected in the county. The number thus derived shall be divided into the number of American Independent Party voters registered in each Assembly district or portion thereof, and the integer nearest the resulting quotient shall be the number of central committee members to be elected to represent that Assembly district or portion thereof.

7652. The incumbent or nominee of each of the following offices shall be an ex officio member of the committee in the county in which he or she resides:

(a) Governor.
(b) Lieutenant Governor.
(c) Secretary of State.
(d) Controller.
(e) Treasurer.
(f) Attorney General.
(g) Member of the State Board of Equalization.
(h) United States Senator from California.
(i) Representative in Congress from California.
(j) All Members of the Legislature.
(k) Any person nominated to a partisan office at a special election to fill a vacancy in that office.

Ex officio members shall be entitled to all the rights and privileges, including the right to vote, and shall have the same standing in every way as other members of this committee, except they shall not be entitled to a ballot designation of incumbent upon seeking election to this committee in the next direct primary.

7653. A committee may authorize any member of that committee, whether elected or ex officio, to appoint an alternate if a member desires to appoint an alternate. An incumbent of an elected partisan office at the time of the meeting of the committee may appoint an alternate member without authorization from that committee, if the member desires to appoint an alternate.

The alternate member shall have the right to vote only with the written authorization of the member who appointed him or her. An

alternate member of a county central committee shall be subject to the rules and regulations of the committee.

An alternate member must meet the same qualifications as the regular member and may vote only in the absence of the member who appointed him or her.

7654. A person shall not be eligible for appointment or election to a committee who is not registered as affiliated with this party at the time of his or her appointment or election.

7655. Each member of a committee, whether elected to the committee or appointed to fill a vacancy, before he or she enters upon the duties of his or her office, shall take and subscribe the oath or affirmation set forth in Section 3 of Article XX of the Constitution.

The oath or affirmation required by this section may be taken before any officer authorized to administer oaths and no fee shall be charged by any person before whom the oath is taken or subscribed.

7656. In the event that the candidates elected to a committee from a district do not equal the number of party committeepersons to which that district is entitled to be represented under this chapter, a vacancy or vacancies exist to the extent of the difference between the number of elected committeemembers and the number of committeemembers by which the district is entitled to be represented. When a vacancy or vacancies exist they shall be filled by the committee to which insufficient members were elected, in the manner provided for in Section 7657.

7657. In the event of the appointment or election to a committee of an ineligible person, or whenever any member of the committee dies, resigns or becomes incapacitated to act, or removes from the jurisdiction of the committee, or ceases to be a member of this party, a vacancy exists which shall be filled by appointment by the committee in which the ineligibility or vacancy occurs. A vacancy shall also exist on a committee when a member is removed from the committee pursuant to Section 7658 or 7660.

7658. Any member, other than an ex officio member, of a committee who misses more than three consecutive regularly called meetings may be removed by a vote of the committee concerned, unless his or her absence is caused by illness or temporary absence from the county on the date of the meeting.

7659. The removal of residence by an elected or appointed member of a committee from the Assembly district or supervisor district from which he or she has been elected or appointed a member of that committee shall constitute his or her automatic resignation from the committee.

7660. A committee may remove any member who during his or her term of membership affiliates with, or registers as a member of another party.

A committee may remove any member, other than an ex officio member, who publicly advocates that the voters should not vote for the nominee of this party for any office, or who gives support or avows a preference for a candidate of another party who is opposed

to a candidate nominated by this party.

7661. Whenever any person is appointed to fill a vacancy on a committee, the chairperson of the committee shall file notices of the appointment with the elections official and the chairperson of the state central committee within 30 days after it is made. The notices shall contain the name and address of the person appointed and the name of the person replaced, and shall indicate the date of the appointment.

Article 2. Election

7670. At every direct primary election a county central committee shall be elected in each county.

7671. The Secretary of State, no later than 125 days before the direct primary, shall compute the number of members of central committees to be elected in each county, and shall mail a certificate reporting that information to the elections official of each county, to the chairperson of the American Independent Party State Central Committee, and to the chairperson of record of each American Independent Party Central Committee.

7672. In each county the name of each candidate for member of a committee shall appear upon the ballot only upon the filing of a nomination paper pursuant to Article 2 (commencing with Section 8020) and Article 6 (commencing with Section 8100) of Chapter 1 of Division 8, signed on his or her behalf by the voters of the Assembly or supervisor district in which he or she is a candidate.

7673. If the elections official, on the 73rd day prior to the direct primary election, finds that the number of candidates nominated for election to a committee from an Assembly or supervisor district does not exceed the number of candidates to be elected from that Assembly or supervisor district, the designation of the office and the names of the candidates shall not be printed on this party's ballot in the Assembly or supervisor district, unless there is filed with the elections official, not later than 20 days after the final date for filing nomination papers for the positions, a petition indicating that a write-in campaign will be conducted for the office and signed by 25 registered voters affiliated with the political party involved. In lieu thereof, the board of supervisors shall declare elected the candidates who have been nominated, and those candidates shall be entitled to receive certificates of election in the same manner as other candidates elected to a committee.

7674. Whenever a candidate for election to a committee dies on or before the day of election, and a sufficient number of ballots are marked as being voted for him or her to entitle him or her to election if he or she had lived until after the election, a vacancy exists on the county central committee, which shall be filled by the committee in the same manner as other vacancies are filled.

Article 3. Meetings

7680. Each committee shall meet in the courthouse at its county seat, upon call, which shall be given by the elections official of the county and in quarters to be arranged or provided for by the elections official of the county, on the second Tuesday in July following the direct primary election, except that in any year in which a national convention of the party includes that date, the existing executive committee of a committee shall set the date of the meeting, not to exceed 30 days after the date herein specified.

7681. Notwithstanding the provisions of Section 7680, a committee in a county having a population in excess of 4,000,000 shall meet at its county seat in a centrally located public auditorium sufficient to accommodate its membership.

7682. The Department of General Services shall permit any committee that desires to do so to hold meetings in a state building within the county, at least one of which meetings each month shall be without charge.

7683. All meetings of the committee shall be held in quarters that shall be accessible to persons with disabilities.

Article 4. General Business

7690. A committee shall have charge of the party campaign under general direction of the state central committee or of the executive committee selected by the state central committee.

7691. A committee may make rules and regulations providing for any of the following:

(a) How officers of the committee may be removed.

(b) How meetings may be called.

(c) Whether or not proxies may be used and the conditions under which they may be used.

7692. The committee shall perform other duties and services for this political party as seem to be for the benefit of the party. They shall continue to function and exist until the election at the succeeding direct primary and qualification of the members of the new committees.

7693. If the chairperson of a committee refuses to call a meeting, a meeting may be called upon five days' notice by a majority of the members of the committee.

7694. Within five days after a committee meets for its organizational meeting, the newly elected chairperson of the committee shall notify the elections official of his or her name. The elections official shall mail a certificate to that effect to the Secretary of State.

7695. Each committee may establish annual dues not to exceed twenty-four dollars ($24) per year for elected, ex officio and alternate members. The committee may remove members or alternates for nonpayment of dues.

PART 5. PEACE AND FREEDOM PARTY

CHAPTER 1. GENERAL PROVISIONS

7700. This part applies to the organization, operation, and functions of that political party known as the Peace and Freedom Party of California.

CHAPTER 2. MEMBERS OF CENTRAL COMMITTEES

Article 1. Members

7750. At each direct primary election, members of central committees shall be elected in each county.

7751. For the purposes of this chapter, the registration figures used shall be those taken from the statement of voters and their political affiliations transmitted by the elections officials to the Secretary of State on the 135th day prior to the next direct primary election.

7752. The number of members of central committees to be elected in a county shall be the greater of either of the following:

(a) The number seven.

(b) The integer nearest the resulting quotient obtained by dividing 400 times the number of Peace and Freedom Party registered voters in the county by the number of Peace and Freedom Party registered voters in the state.

However, the number of members of central committees to be elected in a county shall be five if the number of Peace and Freedom Party registered voters in the county is less than 150.

7753. In each county where the number of members of central committees to be elected is 12 or less, the members shall be elected in a countywide, at large district. In each county where the number to be elected is 13 or greater, the members shall be elected by supervisorial district, except in Los Angeles County and in the City and County of San Francisco, wherein the members shall be elected by Assembly district.

7754. The number to be elected from each supervisorial or Assembly district shall be the greater of either of the following:

(a) The number one.

(b) The integer nearest the resulting quotient obtained by dividing the number of members to be elected in that county times the number of Peace and Freedom Party registered voters in the district by the number of Peace and Freedom Party registered voters in the county.

If the procedure outlined above would result in less members being elected in a county than the number to which the county is entitled under Section 7752, the calculation in subdivision (b) shall be repeated using a number of Peace and Freedom Party registered voters in the county sufficiently smaller than the actual number in

the county so as to give a total number of members of central committees to be elected equal to or the nearest amount which is greater than the number to which the county is entitled.

7755. Each person receiving a Peace and Freedom Party nomination for any partisan public office at the preceding direct primary election or at any special election subsequent thereto shall be declared elected as a member of central committees. Any members elected pursuant to this section shall be in addition to the number a county is entitled to elect pursuant to Section 7752.

Article 2. Election

7770. The Secretary of State, no later than the 125th day before the direct primary election, shall compute the number of members of central committees to be elected in each county and shall mail a certificate to that effect to the elections official of each county, to the Chairperson of the Peace and Freedom Party State Central Committee, and to the chairperson of record of each Peace and Freedom Party County Central Committee.

7771. The elections official, no later than the 115th day before the direct primary election, shall compute the number of members of central committees to be elected in each supervisorial or Assembly district if the election of the members is to be by supervisorial or Assembly district pursuant to this chapter.

7772. In each county, the name of each candidate for member of central committees shall appear on the ballot only if she or he has done either of the following:

(a) Filed a nomination paper pursuant to Chapter 4 (commencing with Section 6700) of Division 6, signed in the candidate's behalf by the voters of the central committee election district in which she or he is a candidate.

(b) Qualified to have her or his name printed on the direct primary ballot as a candidate for the Peace and Freedom Party nomination to a partisan public office.

7773. In counties where members of central committees are to be elected by supervisorial or Assembly district, a person seeking election as a member of central committees may seek election only in the supervisorial or Assembly district in which he or she resides.

7774. A person qualifying as a candidate for member of central committees by virtue of qualification to have her or his name appear on the primary ballot for a partisan public office shall have her or his name listed on the ballot for member of central committees only in the central committee election district of her or his residence.

7775. Notwithstanding any other provision of this code, a person may obtain and circulate nomination papers both for nomination to a public office and for election as a member of central committees.

7776. Notwithstanding any other provision of this code, the number of sponsors which shall be required of a person to be a candidate for member of central committees shall be the lesser of

either of the following:

(a) Not less than 20 nor more than 30.

(b) Not less than 2 percent of the number of voters registered as affiliated with the Peace and Freedom Party in the central committee election district.

7777. Notwithstanding any other provision of this code, up to three candidates for member of central committees in a single central committee election district may have their names listed on a single sponsor's certificate, and the signatures thereon shall be counted toward the sponsor requirement of each and every candidate whose name is listed on the certificate. However, in no case shall the number of candidates having their names on a sponsor's certificate exceed the number of members of central committees to be elected in the district.

7778. The elections official of each county shall include the office of member of central committees and the candidates therefor in a place and manner similar to the office of county central committee and the candidates therefor on various official lists.

7779. The order of appearance of the names of the candidates for member of central committees on the ballot shall be determined by a public drawing held at the time, place, and manner prescribed for determining the order of names of county central committee members pursuant to Chapter 2 (commencing with Section 13100) of Division 13.

7780. The office of member of central committees shall be placed on the direct primary ballot under the heading "Party Central Committees" in the place and manner designated for the office of county central committee pursuant to Chapter 2 (commencing with Section 13100) of Division 13. The subheading printed under party central committees on the direct primary ballot shall be in substantially the following form:

Member of Peace and Freedom Party
Central Committees, 55th Assembly District
or
Member of Peace and Freedom Party
Central Committees, Alpine County

7781. A party nominee for partisan office qualifying to be declared elected as a member of central committees pursuant to Section 7755 shall not be additionally declared directly elected as a member of central committees pursuant to Section 15490 and shall not possess a multiple membership on either the state central committee or on a county central committee.

7782. A certificate of election shall be issued to each elected member of central committees by the officers charged with that duty of issuing certificates of election to members of county central committees under Section 8145.

7783. The votes cast for each candidate for member of central

committees shall be included in the canvass and statement of results in a manner similar to the vote for each candidate for county central committee pursuant to Division 15 (commencing with Section 15000).

7784. The final total of votes cast for each candidate for member of central committees, including the name, address and ballot designation of each candidate, and a specification as to which candidates were declared elected shall be certified to the Secretary of State forthwith upon completion of the official canvass. The elections official shall simultaneously send one copy of this final certification to the Chairperson of the Peace and Freedom State Central Committee.

7785. As soon as practicable after the direct primary election, the Secretary of State shall prepare a certified list by county of all elected Peace and Freedom Party members of central committees, including their addresses and primary election ballot designations. The Secretary of State shall send copies of the list to the registrars of voters of Los Angeles and San Francisco Counties on or before the 20th day of July following the direct primary election. This list shall be maintained for public inspection by those registrars of voters until a subsequent list is received.

CHAPTER 3. STATE CENTRAL COMMITTEE

Article 1. Members

7800. At the convention meeting of the state central committee, the state central committee shall consist initially of only those members of central committees elected at the most recent direct primary election.

7801. The Secretary of State, no later than the 20th day of July following the direct primary election, shall send a notice by mail to each of the elected members of central committees which shall inform that person of the following:

(a) That he or she has been elected as a member of the central committee.

(b) The date, time, and location of the convention meeting of the state central committee.

The Secretary of State shall send with this notice a copy of the certified list provided for in Section 7785.

7802. At its convention and subsequent meetings the state central committee, in its sole discretion, may appoint any additional members to the state central committee as it may desire.

7803. The state central committee may require a balance of elected and appointed members so that 50 percent of the state central committee members from each county are women and 50 percent are men.

7804. No person shall be appointed to membership on the state central committee unless she or he is registered as a voter affiliated

with the Peace and Freedom Party or would register as a voter affiliated with this party if not legally prohibited from doing so.

7805. This committee may remove any elected or appointed member who, during the term of membership, affiliates with or registers as a member of another political party, publicly advocates that the voters should not vote for the nominee of the party for any office, publicly gives support to or avows a preference for a candidate of another party or candidate who is opposed to a candidate nominated by this party, or has violated the bylaws or constitution of the state central committee.

Article 2. Meetings

7820. The state central committee shall hold meetings not less than once during each year.

Article 3. General Business

7830. The state central committee's convention meeting shall be called to order by the chairperson of the committee at 10 a.m. on the Saturday on which it is to be held. It shall at once proceed to the election of temporary chairpeople, 50 percent of whom shall be women and 50 percent of whom shall be men. This committee may hold the election by alphabetical rollcall by county if a majority of its members vote to do so. The state central committee shall elect any other temporary officers as it may determine.

7831. The temporary chairpersons shall appoint any committees as the state central committee may direct.

7832. The convention meeting of the state central committee shall elect the officers of the state central committee and adopt the party's platform, which shall be made public upon its adoption.

7833. The vote on any issue at the convention meeting of the state central committee may be by alphabetical rollcall by county if a majority of its members vote to do so, or any other method prescribed by this committee.

7834. The proceedings at the convention meeting of the state central committee shall be governed by any manual of parliamentary procedure designated by this committee.

7835. This committee may select from its membership an executive committee to which it may grant all or any portion of its powers and duties. If this committee grants any portion of its powers to an executive committee, it shall provide for the election to its executive committee of any number of persons it shall determine, 50 percent of whom shall be women and 50 percent of whom shall be men. All officers of the state central committee shall be members of any executive committee so selected.

7836. The chairperson of the state central committee shall serve a two-year term but shall not succeed herself or himself, and the chairperson shall alternate each biennium between the northern and

southern territories. The boundary between the northern and southern territories of the state shall be that latitudinal line coinciding with the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties.

7837. The Secretary of State, within 10 days after the convention meeting of the state central committee, shall ascertain who is the newly elected chairperson of the state central committee and shall mail a certificate to that effect, including the chairperson's address and telephone number, to the elections official of each county.

7838. All officers elected at the convention meeting of the state central committee shall serve for two-year terms, unless a shorter term is specified by the committee. Any officer of the state central committee may be removed by a majority vote of the state central committee.

7839. This committee shall conduct party campaigns for this party and in behalf of the candidates of this party. It shall appoint committees and appoint and employ campaign directors and perfect whatever campaign organizations it deems suitable or desirable and for the best interest of the party.

7840. The state central committee shall have power to appoint interim county central committees in the following counties:

(a) Counties in which the voters have not elected one or more members of central committees in the direct primary election preceding the organization of this committee.

(b) Counties in which all members of a county central committee are removed from office or cease to be registered as affiliated with the Peace and Freedom Party.

Persons appointed to interim county central committees pursuant to this section shall meet the qualifications otherwise required of appointees to membership on the county central committees. Notice of any appointments pursuant to this section shall be filed by the state central committee with the elections official of the county for which that interim county central committee is appointed and with the Secretary of State. Interim county central committees appointed pursuant to this section shall have all the powers and privileges afforded county central committees by this part.

7841. A quorum of this committee is 10 percent of the entire membership, represented in person. However, the committee may make rules and regulations establishing a different quorum requirement, and any provisions so made shall supersede the provisions of this section.

7842. The state central committee shall designate by resolution the national political party with which the Peace and Freedom Party is affiliated, and shall file a copy of that resolution signed by the chairperson and one other officer of this committee with the Secretary of State. In the event of controversy over the national affiliation of the party, the most recent resolution filed shall be determinative.

7843. In each year of the general election at which electors of

President and Vice President of the United States are to be chosen, the convention meeting of the state central committee shall also nominate as the candidates of its party as many electors of President and Vice President of the United States as the state is then entitled to, 50 percent of whom shall be women and 50 percent men, unless an odd number of electors is to be chosen, in which case the difference between the number of women and men shall be not more than one. The chairperson of the state central committee shall certify the name of each elector nominated, and the elector's residence address to the Secretary of State.

CHAPTER 4. COUNTY CENTRAL COMMITTEE

Article 1. Members

7850. At its first meeting on the second Tuesday in July following the direct primary election and at subsequent meetings, a county central committee, in its sole discretion, may appoint any additional members to the county central committee as it may desire.

7851. A county central committee may require a balance of elected and appointed committee members to create a total membership division of 50 percent women and 50 percent men.

7852. No person shall be appointed to membership on a county central committee unless she or he is registered as a voter affiliated with the Peace and Freedom Party in the county, or is a resident of the county who would register as a voter affiliated with this party if not legally prohibited from doing so.

7853. Any member of a committee who misses more than three consecutive regularly scheduled meetings may be removed by a vote of the committee concerned, unless the absence of the member is caused by illness or temporary absence from the county on the date of the meeting.

7854. The removal of residence by an elected or appointed member of a county central committee from the county from which the member was elected shall constitute the of the member automatic resignation from the committee.

7855. A committee may remove any elected or appointed member, who during the term of membership, affiliates with or registers as a member of another political party, publicly advocates that the voters should not vote for the nominee of the party for any office, publicly gives support to or avows a preference for a candidate of another party or candidate who is opposed to a candidate nominated by this party, or has violated the bylaws or constitution of the committee.

7856. Whenever any person is appointed to a committee, the chairperson of the committee shall file notices of the appointment with the county elections official and the chairperson of the state central committee within 30 days after it is made. The notices shall contain the name and address of the person appointed and shall

indicate the date of the appointment.

7857. If no members of central committees have been elected in a county at the preceding direct primary election or, if for any reason all the members of a county central committee are removed from office or cease to be registered as affiliated as members of the Peace and Freedom Party, then an interim county central committee with full powers may be appointed by the state central committee under the procedures specified in Section 7840.

Article 2. Meetings

7870. The Department of General Services shall permit any committee that desires to do so to hold meetings in a state building within the county, at least one of which meetings each month shall be without charge.

7871. All meetings of the committee shall be held in quarters which shall be accessible to persons with disabilities.

Article 3. General

7880. A committee shall have charge of the party campaign under general direction of the state central committee or of the executive committee selected by the state central committee.

7881. A committee may make rules and regulations providing for the following:

(a) How officers of the committee may be removed.

(b) How meetings may be called, and any provisions so made shall supersede anything in this chapter to the contrary.

(c) Whether or not proxies may be used and the conditions under which they may be used.

7882. The committees shall perform other duties and services for this political party as seem to be for the benefit of the party. They shall continue to function and exist until the members of the new committees take office after the succeeding direct primary election.

7883. If the chairperson of a committee refuses to call a meeting, a meeting may be called upon five days' notice by a majority of the members of the committee.

7884. Within five days after a committee meets for its organizational meeting, the newly elected chairperson of the committee shall notify the county elections official of his or her name. The elections official shall mail a certificate to that effect to the Secretary of State.

DIVISION 8. NOMINATIONS

PART 1. PRIMARY ELECTION NOMINATIONS

CHAPTER 1. DIRECT PRIMARY

Article 1. General Provisions

8000. This chapter does not apply to:

(a) Recall elections.

(b) Presidential primary.

(c) Nomination of officers of cities or counties whose charters provide a system for nominating candidates for those offices.

(d) Nomination of officers for any district not formed for municipal purposes.

(e) Nomination of officers for general law cities.

(f) Nomination of school district officers.

8001. (a) No declaration of candidacy for a partisan office or for membership on a county central committee shall be filed, by a candidate unless (1) at the time of presentation of the declaration and continuously for not less than three months immediately prior to that time, or for as long as he has been eligible to register to vote in the state, the candidate is shown by his affidavit of registration to be affiliated with the political party the nomination of which he seeks, and (2) the candidate has not been registered as affiliated with a qualified political party other than that political party the nomination of which he seeks within 12 months, or, in the case of an election governed by Chapter 1 (commencing with Section 10700) of Part 6 of Division 10, within three months immediately prior to the filing of the declaration.

(b) The elections official shall attach a certificate to the declaration of candidacy showing the date on which the candidate registered as intending to affiliate with the political party the nomination of which he seeks, and indicating that the candidate has not been affiliated with any other qualified political party for the period specified in subdivision (a) immediately preceding the filing of the declaration. This section shall not apply to declarations of candidacy filed by a candidate of a political party participating in its first direct primary election subsequent to its qualification as a political party pursuant to Section 5100.

8002. If a candidate is a candidate for a nonpartisan office, all reference to party affiliation shall be omitted on all forms required to be filed.

8003. This chapter does not prohibit the independent nomination of candidates under Part 2 (commencing with Section 8300), subject to the following limitations:

(a) A candidate whose name has been on the ballot as a candidate of a party at the direct primary and who has been defeated for that party nomination is ineligible for nomination as an independent candidate. He is also ineligible as a candidate named by a party central committee to fill a vacancy on the ballot for a general election.

(b) No person may file nomination papers for a party nomination and an independent nomination for the same office, or for more than one office at the same election.

Article 2. Nomination Documents

8020. (a) No candidate's name shall be printed on the ballot to be used at the direct primary unless the following nomination documents are delivered for filing with the elections official:

(1) Declaration of candidacy pursuant to Section 8040.

(2) Nomination papers signed by registered voters pursuant to Section 8041.

(b) The forms shall first be available on the 113th day prior to the direct primary election and shall be delivered not later than 5 p.m. on the 88th day prior to the direct primary.

(c) Upon the receipt of an executed nomination document, the elections official shall give the person delivering the document a receipt, properly dated, indicating that the document was delivered to the elections official.

(d) Notwithstanding Section 8028, upon request of a candidate, the elections official shall provide the candidate with a declaration of candidacy. The elections official shall not require a candidate to sign, file, or sign and file, a declaration of candidacy as a condition of receiving nomination papers.

8021. All nomination documents which are delivered for filing to the elections official in compliance with Section 8020 and that are not required by this chapter to be filed in the office of the Secretary of State shall be filed with the elections official by the 83rd day before the primary election.

8022. (a) Each candidate for a party nomination for the office of State Senator or Member of the Assembly, or for any state constitutional office, or for Insurance Commissioner, at the direct primary election shall file a written and signed declaration of his or her intention to become a candidate for his or her party's nomination for that office. The declaration of intention shall be filed with either the Secretary of State or the elections official of the county in which the candidate is a resident. The declaration of intention shall be filed, on a form to be supplied by the elections official, not more than 14 nor less than five days prior to the first day on which nomination papers may be presented for filing. However, if the incumbent fails to file a declaration of intention by the end of that period, persons other than the incumbent may file declarations of intention no later than the first day for filing nomination papers. The declaration of intention provided for in this section shall be in substantially the following form:

I hereby declare my intention to become a candidate for the _____ Party's nomination
(Name of political party)
for the office of _____
(Name of office and district, if any)

at the direct primary election.

(Signature of candidate)

(Address of candidate)

(b) No person may be a candidate nor have his or her name printed upon any ballot as a candidate for a party nomination for the office of Senator or Member of the Assembly, or for any state constitutional office, or for Insurance Commissioner at the direct primary election unless he or she has filed the declaration of intention provided for in this section. However, if the incumbent of the office who is affiliated with any qualified political party files a declaration of intention, but for any reason fails to qualify for nomination for the office by the last day prescribed for the filing of nomination papers, an additional five days shall be allowed for the filing of nomination papers for the office, and any person, other than the incumbent if otherwise qualified, may file nomination papers for the office during the extended period, notwithstanding that he or she has not filed a written and signed declaration of intention to become a candidate for the office as provided in subdivision (a).

8023. (a) Except in the case of a judicial office filled in accordance with subdivision (d) of Section 16 of Article VI of the Constitution, every candidate for a judicial office, not more than 14 nor less than five days prior to the first day on which his or her nomination papers may be circulated and signed or may be presented for filing, shall file in the office of the elections official in which his or her nomination papers are required to be filed or left for examination, a written and signed declaration in duplicate of his or her intention to become a candidate for that office on a form to be supplied by the elections officials. A candidate for a numerically designated judicial office shall state in his or her declaration for which office he or she intends to become a candidate. A copy of each declaration of intention filed in accordance with this article, except those for municipal and justice court offices, shall be immediately forwarded by the elections official to the Secretary of State. This section shall apply to all judicial offices whether numerically designated or not.

(b) No person may be a candidate nor have his or her name printed upon any ballot as a candidate for judicial office unless he or she has filed the declaration of intention provided for in this section. If the incumbent of a judicial office fails to file a declaration of intention by the end of the period specified in subdivision (a), persons other than the incumbent may file declarations of intention no later than the first day for filing nomination papers.

8024. Notwithstanding Section 8020 or any other provision of the law, if nomination documents for an incumbent officer of a county are not delivered by 5 p.m. on the 88th day before the direct primary election, any person other than the person who was the incumbent on the 88th day shall have until 5 p.m. on the 83rd day before the election to file nomination documents for the elective office.

This section is not applicable where there is no incumbent eligible to be elected.

8025. If only one candidate has declared a candidacy for a partisan nomination at the direct primary election for a party qualified to participate at that election, and that candidate dies after the last day prescribed for the delivery of nomination documents to the elections official, as provided in Section 8020, but not less than 83 days before the election, any person qualified under the provisions of Section 8001 may circulate and deliver nomination documents for the office to the elections official up to 5 p.m. on the 74th day prior to the election. In that case, the elections official shall, immediately after receipt of those nomination documents, certify and transmit them to the Secretary of State in the manner specified in this article.

8026. (a) Notwithstanding any other provision of law, except for an election for a judicial office, an election shall not be conducted and no votes cast for the office shall be counted, and if counted the votes shall be null and void, if an incumbent is a candidate for a nonpartisan statewide, countywide, or citywide office, or for a nonpartisan office that is elected by division, area, or district, which he or she currently holds at an election at which only one other candidate, excluding any write-in candidates, has qualified to have his or her name placed on the ballot for that office, and either the challenger or the incumbent dies after the hour of 12:01 a.m. of the 68th day before the election.

(b) A special election shall be called and held when the death of the challenger or the incumbent occurs within the period set in subdivision (a). The special election shall be called by the appropriate governing body within 14 days after the death of the incumbent or challenger. The special election shall be held no later than 88 days after the proclamation or resolution calling the election. Candidates at the special election shall be nominated in accordance with this part, except that forms for securing signatures in lieu of a filing fee need not be made available until 15 days before the first day for circulating nomination papers, in-lieu-filing-fee petitions shall be filed at least seven days prior to the closing of the nomination period, nomination papers shall be delivered for filing to the elections official not less than 68 days and not more than 87 days before the special election, any candidate's statement shall be filed with the clerk no later than the 68th day before the special election, and the Secretary of State shall conduct the randomized alphabet drawing under procedures similar to Sections 13112 and 13113 on the 67th day before the special election. Any candidate who paid a filing fee in connection with the previously scheduled election shall not be required to pay any additional filing fee, but shall be required to file new nomination papers.

(c) The Secretary of State or elections official shall take appropriate action to ensure that voters do not erroneously vote in a canceled election.

8027. (a) Filing of nomination papers for a nonpartisan office,

except for a judicial office, shall be reopened when an incumbent who is a candidate for a nonpartisan statewide, countywide, or citywide office, or for a nonpartisan office that is elected by division, area, or district which he or she currently holds at an election at which only one other candidate, excluding any write-in candidates, has qualified to have his or her name placed on the ballot for that office and either the challenger or the incumbent dies after the 88th day but before the 68th day before the election.

(b) Any person qualified to be a candidate for the office for which either the deceased challenger or the deceased incumbent was a candidate may circulate and deliver nomination papers commencing the day after the death of either the challenger or the incumbent. Candidates shall be nominated in accordance with this part, except that in-lieu-filing-fee petitions shall not be made available and nomination papers shall be returned to the elections official no later than 5 p.m. on the 68th day before the election.

8028. (a) Except as provided in subdivision (b), a candidate shall not remove a declaration of candidacy form from the office of the elections official, and the elections official shall require all candidates filing a declaration of candidacy to execute the declaration in the office of the elections official.

(b) A candidate may, in a written statement signed and dated by the candidate, designate a person to receive a declaration of candidacy form from the elections official and deliver it to the candidate. The statement shall include language indicating that the candidate is aware that the declaration of candidacy must be properly executed and delivered to the elections official of the county of the candidate's residence by the 88th day prior to the direct primary election. That statement shall be retained by the elections official.

Article 3. Form of Nomination Documents

8040. The declaration of candidacy by a candidate shall be substantially as follows:

DECLARATION OF CANDIDACY

I hereby declare myself a _____ Party candidate for nomination to the office of _____ District Number _____ to be voted for at the primary election to be held _____, 19__, and declare the following to be true:

My name is _____.

I want my name and occupational designation to appear on the ballot as follows

Addresses:

Residence _____

_____

Business _____

_____

Mailing _____

_____

Telephone numbers: Day _____ Evening _____

I meet the statutory and constitutional qualifications for this office (including but not limited to citizenship, residency, and party affiliation, if required).

I am at present an incumbent of the following public office (if any) _____.

If nominated, I will accept the nomination and not withdraw.

_____

Signature of candidate

State of California } ss.
County of _____ }

Subscribed and sworn to before me this _____ day of _____, 19__.

_____

Notary Public (or other official)

Examined and certified by me this _____ day of _____, 19__.

_____

Registrar of Voters—County Clerk

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any declaration of candidacy in his possession which is entitled to be filed under the provisions of the Elections Code Section 18202.

(Added by Stats. 1994, Ch. 503)

[ORIGINAL SECTION]

8040. The declaration of candidacy by a candidate shall be substantially as follows:

DECLARATION OF CANDIDACY

I hereby declare myself a _____ Party candidate for nomination to the office of _____ District Number _____ to be voted for at the primary election to be held _____, 19__, and declare the following to be true:

My name is _____.

I want my name and occupational designation to appear on the ballot as follows _____.

Addresses:

Residence _____

_____

Business _____

_____

Mailing _____

_____

Telephone numbers: Day _____ Evening _____

I meet the statutory and or constitutional qualifications for this office (including but not limited to citizenship, residency, and party affiliation, if required).

I am at present an incumbent of the following public office (if any) _____.

If nominated, I will accept the nomination and not withdraw.

_____

Signature of candidate

State of California
County of _____ } ss.

Subscribed and sworn to before me this _____ day of _____, 19__.

_____

Notary Public (or other official)

Examined and certified by me this _____ day of _____, 19__.

_____

Elections Official

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any declaration of candidacy in his or her possession which is entitled to be filed under Section 18202 of the Elections Code.

8041. (a) The nomination paper shall be in substantially the following form:

"NOMINATION PAPER

I, the undersigned signer for _____ for the _____ Party nomination to the office of _____, to be voted for at the primary election to be held on the _____ day of _____, 19__, hereby assert as follows:

I am a resident of _____ County and registered to vote at the address shown on this paper and affiliated with the _____ Party. I am not at this time a signer of any other nomination paper of any other candidate for the above-named office, or in case there are several places to be filled in the above-named office, I have not signed more nomination papers than there are places to be filled in the above-named office. My residence is correctly set forth after my signature hereto:

Name _____
Residence _____

(b) The affidavit of the circulator shall read as follows:

AFFIDAVIT OF THE CIRCULATOR

I, _____, solemnly swear (or affirm) that I have been appointed according to Sections 8042 and 8065 of the Elections Code, as a circulator to secure signatures in the County of _____ to the nomination paper of _____ as a candidate for the nomination of the _____ Party for the office of _____; that the signatures on this section of the nomination paper were obtained between _____, 19__, and _____, 19__; that I circulated the petition and I saw the signatures on this section of the nomination paper being written; and that, to the best of my information and belief, each signature is the genuine signature of the person whose name it purports to be.

My voting residence is _____.

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, 19__.

_____

(SEAL) Notary Public (or other official)

Examined and certified by me this _____ day of _____, 19__.

_____

Elections Official

WARNING: Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any nomination paper in his or her possession which is entitled to be filed under Section 18202 of the Elections Code.

8042. The document in which circulators are appointed by the candidate shall be in substantially the following form:

I, the undersigned, a candidate for the _____ Party nomination for the office of _____, which nomination is to be made by direct vote at a primary election to be held on the ____ day of _____, 19__, do hereby appoint the following voters of the County of _____, as circulators to obtain signatures of sponsors in that county to a nomination paper placing me in nomination as a candidate of the _____ Party for the office of _____.

CIRCULATORS

Name	Residence
_____	_____
_____	_____
_____	_____
etc.	etc.

(Signature of candidate) _____
(Residence) _____

Filed in the office of the Elections Official of the County of _____, this ____ day of _____, 19__.

_____
Elections Official

Article 4. Circulation and Signatures-Nomination Documents

8060. A candidate who declares his or her candidacy shall have registered voters sign his or her nomination papers pursuant to this article.

8061. If a candidate submits an in-lieu-filing-fee petition pursuant to Section 8106, any or all signatures appearing on the petition, which would be valid under Section 8041, shall be counted towards the number of voters required to sign a nomination paper. If an in-lieu-filing-fee petition contains a requisite number of valid signatures under Section 8062, the candidate shall not be required to file nomination papers, but may request the elections official to accept the petition instead of filing nomination papers.

If an in-lieu-filing-fee petition does not contain the requisite number of valid signatures as set forth in Section 8062, the candidate shall be entitled to file, within the time period allowed for filing nomination papers, a nomination paper in order to obtain the requisite number of valid signatures required to be submitted to the elections official on a nomination paper. A candidate who submits a nomination paper pursuant to this paragraph shall only be required to obtain the number of signatures thereon needed to supplement the in-lieu-filing-fee petition so that the combination of signatures appearing on the in-lieu-filing-fee petition and the nomination paper equals or exceeds the requisite number of signatures set forth in Section 8062.

8062. The number of registered voters required to sign a nomination paper for the respective offices are as follows:

(a) State office or United States Senate, not less than 65 nor more than 100.

(b) House of Representatives in Congress, State Senate or Assembly, Board of Equalization, or any office voted for in more than

one county, and not statewide, not less than 40 nor more than 60.

(c) Candidacy in a single county or any political subdivision of a county, other than State Senate or Assembly, not less than 20 nor more than 40.

(d) When any political party has less than 50 voters in the state or in the county or district in which the election is to be held, one-tenth the number of voters of the party.

(e) When there are less than 150 voters in the county or district in which the election is to be held, not less than 10 nor more than 20.

8063. The nomination paper shall be delivered to the elections official of the county in which the signer resides and is a voter.

8064. The declaration of candidacy shall be obtained from, and delivered to, the elections official of the county in which the candidate resides and is a voter in accordance with Section 8028.

8065. The elections official shall not accept for filing any nomination paper unless all blanks in the certificate are filled.

The candidate may appoint circulators to serve, within the county in which they reside, for purposes of securing signatures to the candidate's nomination paper. Circulators appointed pursuant to this section shall be authorized to secure signatures to the nomination paper of the candidate in that county. The document in which the circulators are appointed by the candidate shall be filed with the elections official on or before the date nomination papers are left with the elections official for filing or examination.

8066. Circulators appointed pursuant to this article shall be voters in the district or political subdivision in which the candidate is to be voted on and shall serve only in that district or political subdivision.

8067. No more signers shall be secured for any candidate than the maximum number required in this article. If, however, through miscalculation or otherwise, more signers are secured than the maximum number, the officer with whom the nomination papers are filed shall, with the written consent of the candidate, withdraw the excess number.

8068. Signers shall be voters in the district or political subdivision in which the candidate is to be voted on and shall be affiliated with the party, if any, in which the nomination is proposed.

8069. No signer shall, at the time of signing a certificate, have his or her name signed to any other nomination paper for any other candidate for the same office or, in case there are several places to be filled in the same office, signed to more nomination papers for candidates for that office than there are places to be filled.

8070. The elections official shall transmit to the Secretary of State the nomination document for each candidate for state office, United States Senator, Representative in Congress, Member of the Senate or Assembly, judges of the superior court, or the members of the State Board of Equalization.

Article 5. Verification of Nomination Signatures

8080. No fee or charge shall be made or collected by any officer for verifying any nomination document or circulator's affidavit.

8081. Before any nomination document is filed in the office of the county elections official or forwarded for filing in the office of the Secretary of State, the county elections official shall verify the signatures and the political affiliations of the signers on the nomination paper with the registration affidavits on file in the office of the county elections official. The county elections official shall mark "not sufficient" any signature that does not appear in the same handwriting as appears on the affidavit of registration in his or her office, or that is accompanied by a declaration of party affiliation that is not in accordance with the declaration of party affiliation in the affidavit of registration. The county elections official may cease to verify signatures once the minimum requisite number of signatures has been verified.

8082. All nomination documents that are required to be filed in the office of the Secretary of State, within five days after being left with the county elections official in compliance with Section 8020, shall be forwarded by the county elections official to the Secretary of State, who shall receive and file them. The county elections official shall forward with the nomination documents a statement showing the total number of signatures on the nomination document that have not been marked "not sufficient."

8083. The county elections official's statement to the Secretary of State of the number of signers shall be in substantially the following form:

STATEMENT OF COUNTY ELECTIONS OFFICIAL OF NUMBER OF SIGNERS

I, County Elections Official of the County of _____, hereby certify that I have examined the _____ hereto attached filed on behalf of _____, candidate for nomination to the office of _____ at the primary election to be held on the ____ day of _____, 19__, and that the total number of signatures which I have not marked "not sufficient" is _____.

Dated this ____ day of _____, 19__.

_____ County Elections Official

(SEAL) By _____ Deputy

8084. If the number of signatures affixed to an in-lieu filing fee petition filed pursuant to Section 8106 is 100 or more, the county elections official may use a random sampling technique for verification of the signatures. If a random sampling technique is used, and the number of signatures on a petition is 100 or more but less than 2,000, the random sampling shall include an examination of 100 signatures. If the number of signatures on a petition is 2,000 or more, the random sampling shall include an examination of 5 percent of the signatures. Upon completion of the verification of signatures

in the sample, the percentage of signatures which are valid shall be applied and projected to the total number of signatures submitted.

Article 6. Nomination Papers. Place of Filing. Fees

8100. All nomination documents shall be filed as follows:

(a) For state offices, United States Senators, Representatives in Congress, Members of the State Senate and Assembly, judges of the superior court, and members of the Board of Equalization, in the office of the Secretary of State.

(b) For all officers to be voted for wholly within one county, except as provided in subdivision (a), in the office of the elections official of that county.

8101. All forms required for nomination and election to all congressional, state, county, and political party county central committee offices shall be furnished only by the county elections official. At the time of issuance of those forms the county elections official shall type in the forms the name of the candidate and the office for which he or she is a candidate, shall imprint a stamp which reads "Official Filing Form," and shall affix his or her signature. The forms shall be distributed without charge to all candidates applying for them.

8102. No defect in any nomination document presented shall prevent the filing of another nomination document within the period allowed for presenting the nomination document.

8103. (a) The following fees for filing declarations of candidacy shall be paid to the Secretary of State by each candidate:

(1) Two percent of the first-year salary for the office of United States Senator or for any state office. The fee prescribed in this subdivision does not apply to the office of state Senator, Member of the Assembly, member of the State Board of Equalization, or justice of the court of appeal.

(2) One percent of the first-year salary for the office of Representative in Congress, member of the State Board of Equalization, or justice of the court of appeal.

(3) One percent of the first-year salary for the office of state Senator or Member of the Assembly.

(b) For purposes of this section, "salary" means the annual salary for the office as of the first day on which a candidate may circulate petitions in lieu of filing fees pursuant to Section 8106.

8104. The filing fee to be paid to the county elections official for filing a declaration of candidacy for an office to be voted for wholly within one county other than a legislative or congressional office shall be as follows:

(a) No filing fee is required from any candidate for an office for which no fixed compensation is payable, or for which the annual salary is two thousand five hundred dollars ($2,500) or less.

(b) A filing fee of 1 percent of the annual salary of the office shall be paid to the county elections official by each candidate for a judicial

office or for a county office. This subdivision shall not apply to any candidate for any office for which the annual salary is two thousand five hundred dollars ($2,500) or less.

The filing fee shall be calculated on the basis of the annual salary for the office on the first day to circulate petitions to gather signatures in lieu of filing fees.

8105. The filing fees for all candidates required to file declarations of intention to become a candidate shall be paid at the time such declarations are filed with the county elections official. The filing fees for all other candidates shall be paid at the time the candidates obtain their nomination forms from the county elections official. The county elections official shall not accept any papers unless the fees are paid at the time required by this section, or unless satisfactory evidence is given to the county elections official or to the registrar of voters that the fee has been paid at the time of the declaration of candidacy in another county. The county elections official shall transmit the appropriate fees to the Secretary of State at the time he or she delivers the declarations of candidacy for filing. All filing fees received by the Secretary of State and elections officials are nonrefundable.

8106. (a) Notwithstanding any other provision of this article, a candidate may submit a petition containing signatures of registered voters in lieu of a filing fee as follows:

(1) For the office of California State Assembly, 1,500 signatures.

(2) For the office of California State Senate and the United States House of Representatives, 3,000 signatures.

(3) For candidates running for statewide office, 10,000 signatures.

(4) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he or she seeks nomination is 2,000 or more, a candidate may submit a petition containing four signatures of registered voters for each dollar of the filing fee, or 10 percent of the total of registered voters in the district in which he or she seeks nomination, whichever is less.

(5) For all other offices for which a filing fee is required, if the number of registered voters in the district in which he or she seeks nomination is less than 2,000, a candidate may submit a petition containing four signatures of registered voters for each dollar of the filing fee, or 20 percent of the total of registered voters in the district in which he or she seeks nomination, whichever is less.

(6) Notwithstanding any other provision of this section, a candidate seeking the nomination of a qualified party with whom he or she is registered, the registered voters of which who were eligible to vote at the last statewide election constituted less than 5 percent of all registered voters eligible to vote at the last statewide election, may submit a petition containing signatures of 10 percent of the registered voters of that party in the district in which he or she seeks nomination, or 150 signatures, whichever is less.

(7) A voter may sign both a candidate's nomination papers and his or her in-lieu-filing-fee petition. However, if signatures appearing on

the documents are counted towards both the nomination paper and the in-lieu-filing-fee petition signature requirements, a person may only sign one of the documents.

(b) The Secretary of State or an elections official shall furnish to each candidate, upon request, and without charge therefor, forms for securing signatures. The number of forms which the elections official shall furnish a candidate shall be a quantity that provides the candidates with spaces for signatures sufficient in number to equal the number of signatures that the candidate is required to secure pursuant to subdivision (a) if the candidate desires that number of forms. However, the elections official, rather than provide the candidate with the number of forms set forth in the preceding sentence, or upon the request of a candidate, may provide the candidate with a master form that may be duplicated by the candidate at the candidate's expense for the purpose of circulating additional petitions. The Secretary of State shall provide the master form. The elections official may provide candidates a form other than the master form provided by the Secretary of State. However, that form shall meet all statutory requirements, and the elections official shall also make available and accept the master form provided by the Secretary of State. All forms shall be made available commencing 45 days before the first day for circulating nomination papers. However, in cases of vacancies for which a special election is authorized or required to be held to fill the vacancy, and where the prescribed nomination period would commence less than 45 days after the creation of the vacancy, the forms shall be made available within five working days after the creation of the vacancy. No other form except the form furnished by the Secretary of State or the elections official or forms duplicated from a master form shall be used to secure signatures. Each petition section shall bear an affidavit signed by the circulator, in substantially the same form as set forth in Section 8041. The substitution of signatures for fees shall be subject to the following provisions:

(1) Any registered voter may sign an in-lieu-filing-fee petition for any candidate for whom he or she is eligible to vote.

(2) If a voter signs more candidates' petitions than there are offices to be filled, the voter's signatures shall be valid only on those petitions which, taken in the order they were filed, do not exceed the number of offices to be filled.

(3) In-lieu-filing-fee petitions shall be filed at least 15 days prior to the close of the nomination period. Upon receipt of the minimum number of in-lieu-filing-fee signatures required, or a sufficient combination of signatures and pro rata filing fee, the elections official shall issue nomination papers provisionally. Within 10 days after receipt of a petition, the elections official shall notify the candidate of any deficiency. The candidate shall then, prior to the close of the nomination period, either submit a supplemental petition, or pay a pro rata portion of the filing fee to cover the deficiency.

(4) If the petition is circulated for an office in more than one

county, the candidate shall submit the signatures to the elections official in the county in which the petition was circulated. The elections official shall at least two days after verifying the signatures on the petition, notify the Secretary of State of the total number of valid signatures. If the number of signatures is insufficient, the Secretary of State shall notify the candidate and the elections officials of the fact. The candidate may submit the necessary number of valid signatures at any time prior to the close of the period for circulating nomination papers. Each circulator of an in-lieu-filing-fee petition shall be a registered voter of the district or political subdivision in which the candidate is to be voted on. The circulator shall serve within the county in which he or she resides.

(5) Each candidate may submit a greater number of signatures to allow for subsequent losses due to invalidity of some signatures. The elections official shall not be required to determine the validity of a greater number of signatures than that required by this section.

(c) For the purposes of this section, the requisite number of signatures shall be computed from the latest registration figures forwarded to the Secretary of State pursuant to Section 2187 prior to the first day on which petitions are available.

(d) All valid signatures obtained pursuant to this section shall be counted towards the number of voters required to sign a nomination paper in accordance with Section 8061 or 8405.

8107. The county elections official shall pay to the county treasurer all fees received from candidates pursuant to Section 8105. Within 10 days after the direct primary, the Secretary of State shall pay to the State Treasurer all fees received from candidates pursuant to Section 8103, which shall be deposited in the General Fund.

It is the intention of the Legislature that the funds deposited in the General Fund pursuant to this section will be used by the Secretary of State in the performance of his or her duties pursuant to Chapter 1 (commencing with Section 19000) of Division 19, to the extent that appropriations are made in the Budget Act from year to year.

Article 7. Certified List of Candidates

8120. At least 68 days before the direct primary, the Secretary of State shall transmit to each county elections official a certified list of candidates who are eligible to be voted for in his or her county at the direct primary.

8121. Not less than five days before he or she transmits the certified list of candidates to the county elections officials, as provided in Section 8120, the Secretary of State shall notify each candidate for partisan office of the names, addresses, offices, occupations, and party affiliations of all other persons who have filed for the same office.

8122. The Secretary of State shall certify and transmit the list of candidates for nomination to each office according to Assembly districts, in the order of arrangement prescribed in Chapter 2

(commencing with Section 13100) of Division 13. In the case of each county containing more than one Assembly district, the Secretary of State shall transmit separate lists for each Assembly district.

8123. The Secretary of State, at the time he or she transmits the list of candidates to the county elections official, shall inform the county elections official of the address of each candidate.

8124. The certified list of candidates sent to each county elections official by the Secretary of State shall show:

(a) The name of each candidate.

(b) The office for which each person is a candidate.

(c) The party each person represents, unless the office is nonpartisan.

8125. The certified list of candidates sent to each county elections official by the Secretary of State shall be in substantially the following form:

CERTIFIED LIST OF CANDIDATES FOR NOMINATION

SECRETARY OF STATE

To the County Elections Official of _____ County:

I, _____, Secretary of State, do hereby certify that the following list contains the name of each person for whom nomination papers have been filed in my office and who is entitled to be voted for in the above-named county at the direct primary election to be held on the _____ day of _____, 19__, the designation of the office for which each person is a candidate, his or her name being stated under the name of the party he or she represents, except in the case of a nonpartisan office.

_____ PARTY

STATE (AND DISTRICT) OFFICES

(Title of office)	(Name of candidate)
_____	_____
_____	_____
_____	_____

_____ District

CONGRESSIONAL OFFICES

(Including United States Senator, if any)

_____	_____
_____	_____

_____ District

LEGISLATIVE OFFICES

_____ District
_____ District

_____ PARTY

STATE (AND DISTRICT) OFFICES

I further certify the following list contains the name of each person for whom nomination papers have been filed in my office, together with a designation of the office for which each person is a candidate, and that each person is entitled to be voted for in your county at that election by any registered qualified elector of your county, whether registered as intending to affiliate with any political party or not.

NONPARTISAN OFFICES

JUDICIAL OFFICES

(Title of office)	(Name of candidate)

_____ District

SUPERINTENDENT OF PUBLIC INSTRUCTION

Dated at Sacramento, California, this _____ day of _____, 19__.

_____
Secretary of State

Article 8. Nominated Candidates

8140. Any candidate for a nonpartisan office who at a primary election receives votes on a majority of all the ballots cast for candidates for that office shall be elected to that office. Where two or more candidates are to be elected to a given office and a greater number of candidates receive a majority than the number to be elected, those candidates shall be elected who secure the highest votes of those receiving a majority, and equal in number to the number to be elected.

Where a candidate has been elected to a nonpartisan office at the

primary election, that office shall not appear on the ballot at the ensuing general election, notwithstanding the death, resignation, or other disqualification of the candidate at a time subsequent to the primary election.

8141. If no candidate has been elected to a nonpartisan office pursuant to Section 8140 or if the number of candidates elected at the primary election is less than the total number to be elected to that office, then candidates for that office at the ensuing election shall be those candidates not elected at the primary who received the next highest number of votes cast for nomination to that office, equal in number to twice the number remaining to be elected to that office, or less, if the total number of candidates not elected is less.

8142. In the case of a tie vote, nonpartisan candidates receiving the same number of votes shall be candidates at the ensuing general election if they qualify pursuant to Section 8141 whether or not there are more candidates at the general election than prescribed by this article. In no case shall the candidates determine the tie by lot.

8143. If the number of candidates elected at a primary election to any nonpartisan office is less than the number of persons to be elected to that office, there shall be printed on the ballot, in a group, only the names of the other candidates receiving the next highest number of votes for nomination to that office as may equal twice the number of persons remaining to be elected to that office, or a smaller number if the list of candidates is exhausted. This group shall be preceded by the designation of the office and the words "vote for _____," the blank being filled by a number equal to the number of persons remaining to be elected to that office.

8144. The candidates for election to membership on the county central committee, equal in number to the number to be elected, receiving the highest number of votes in their supervisorial district or Assembly district, as the case may be, shall be declared elected.

8145. It is the duty of the officers charged with the canvass of the returns of any primary election in any county or city to issue:

(a) Certificates of election to each member elected to a county central committee.

(b) Certificates of nomination to candidates nominated for nonpartisan offices voted for wholly within one county.

8146. Certificates of nomination or election issued by county or municipal officers shall be issued immediately upon the completion of the canvass of the returns at the primary election.

8147. The Secretary of State shall issue certificates of nomination to candidates nominated for Representatives in Congress, Members of the State Senate and Assembly, members of the State Board of Equalization, and for all statewide offices.

8148. Not less than 68 days before the general election, the Secretary of State shall deliver to the appropriate county elections official a certificate showing:

(a) The name of every person entitled to receive votes within that county at the general election who has received the nomination as

a candidate for public office pursuant to this chapter.

(b) For each nominee the name of the party that has nominated him or her, if any.

(c) The designation of the public office for which he or she has been nominated.

8149. The Secretary of State shall certify and transmit the list of candidates for each office according to Assembly districts, in the order of arrangement prescribed by Chapter 2 (commencing with Section 13100) of Division 13. In the case of each county containing more than one Assembly district, he or she shall transmit separate lists for each Assembly district.

8150. The certificate of the Secretary of State showing candidates nominated or selected at a primary election shall be substantially in the following form:

CERTIFICATE OF SECRETARY OF STATE SHOWING CANDIDATES NOMINATED OR SELECTED AT PRIMARY ELECTION

SECRETARY OF STATE

To the County Elections Official of _____ County:

I, _____, Secretary of State, do hereby certify that below are stated the names of those persons entitled to receive votes within your county at the general election who have received partisan nominations or have been selected as candidates for office at the primary election. These nominations and selections are evidenced by the compilation and statement required to be made by me and filed in my office. Set forth along with their respective names there is shown the candidate's designation of his or her office, profession, vocation or occupation, and there is also shown separately and respectively for each nominee the name of the political party or organization, if any, that has nominated him or her and the designation of the public office for which he or she is so nominated.

STATE (AND DISTRICT) OFFICES

(Name of candidate)	(Candidate's designation of office, occupation, etc.)	(Party)	(Office)

_____ District

CONGRESSIONAL OFFICES

_____ _____ _____ _____
_____ _____ _____ _____
_____ _____ _____ _____

_____ District

LEGISLATIVE OFFICES

_____ _____ _____ _____
_____ _____ _____ _____
_____ _____ _____ _____

_____ District

JUDICIAL OFFICES

(Name)	(Candidate's designation of office, occupation, etc.)	(Office)
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____ District

SUPERINTENDENT OF PUBLIC INSTRUCTION

_____ _____ _____
_____ _____ _____
_____ _____ _____

I also certify that at the state conventions that met, according to law, at the State Capitol on the _____ day of _____, 19__, the following persons were nominated as electors of President and Vice President of the United States, for the parties respectively hereinafter placed at the head of the column containing their respective names, and you are hereby directed to print the names of the candidates for President and Vice President for whom those electors have pledged themselves to vote, upon the official ballots to be used at the general election, as representing the candidates of their respective parties for that office.

PRESIDENTIAL ELECTORS

_____ Party	_____ Party
_____ President	_____ President
_____ Vice President	_____ Vice President
1 _____	1 _____
2 _____	2 _____
3 _____	3 _____
etc.	etc.

Dated at Sacramento, California, this _____ day of _____, 19__.

_____

(SEAL) Secretary of State

CHAPTER 2. JUDICIAL OFFICERS

Article 1. Distinguishing Number on Ballot

8200. In any election at which two or more judges or justices of any court are to be voted for or elected for the same term, it shall be deemed that there are as many separate judicial offices to be filled as there are judges or justices of the court to be elected. Each separate office shall be designated by a distinguishing number not greater than the total number of the offices. The designation shall remain the same for all purposes of both primary and general election and shall be used on all nomination papers, certificates of nomination, ballots, certificates of election, and all election papers referring to the office. After election and the issuance of the certificates of election, the designating number shall have no further significance.

8201. A declaration of candidacy for election or a nomination by the Governor, made pursuant to subdivision (d) of Section 16 of Article VI of the California Constitution, shall be filed with the officer charged with the duty of certifying nominations for publication in the official ballot.

8202. The numerically designated offices shall be grouped and arranged on all ballots in numerical order. No person may be a candidate nor have his or her name printed upon any ballot as a candidate for any numerically designated office other than the one indicated by him or her in his or her declaration of intention to become a candidate.

8203. In any county or any judicial district in which only the incumbent has filed nomination papers for the office of superior court judge, municipal court judge, justice court judge, or constable of a justice court, his or her name shall not appear on the ballot unless there is filed with the elections official, within 10 days after the final date for filing nomination papers for the office, a petition indicating

that a write-in campaign will be conducted for the office and signed by 100 registered voters qualified to vote with respect to the office.

If a petition indicating that a write-in campaign will be conducted for the office at the general election, signed by 100 registered voters qualified to vote with respect to the office, is filed with the elections official not less than 83 days before the general election, the name of the incumbent shall be placed on the general election ballot if it has not appeared on the direct primary election ballot.

If, in conformity with this section, the name of the incumbent does not appear either on the primary ballot or general election ballot, the elections official, on the day of the general election, shall declare the incumbent reelected. Certificates of election specified in Section 15401 or 15504 shall not be issued to a person reelected pursuant to this section before the day of the general election.

8204. (a) If an incumbent of a judicial office dies on or before the last day prescribed for the filing of nomination papers, or files a declaration of intention but for any reason fails to file his or her nomination papers by the last day prescribed for the filing of the papers, an additional five days shall be allowed for the filing of nomination papers for the office.

(b) Any person, other than the person who was the incumbent, if otherwise qualified, may file nomination papers for the office during the extended period, notwithstanding that he or she has not filed a written and signed declaration of intention to become a candidate for the office as provided in Sections 8023 and 8201.

Article 2. Adoption of Subdivision (d) of Section 16 of Article VI of the California Constitution

8220. The voters of any county may adopt subdivision (d) of Section 16 of Article VI of the Constitution of this state as applicable to the judge of the superior court of the county if a majority of the voters of the county, voting on the question of its adoption, vote in favor thereof.

8221. Subdivision (d) of Section 16 of Article VI may be adopted:

(a) In pursuance of an ordinance or resolution adopted by the board of supervisors of the county, declaring that the public interest requires the submission at an election of the proposal to adopt the provisions as applicable to the judge of the superior court of the county.

(b) In pursuance of a petition of voters of the county as provided in this article.

8222. The petition shall state the name and address of a person to whom notice of the insufficiency of the petition shall be sent in the event the petition has not the required number of signatures of voters signed thereto.

8223. The petition shall be signed by 10 percent of the voters of the county, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding gubernatorial

election, and it shall pray for the adoption of the provisions as applicable to the judge of the superior court of the county. The petition shall be filed in the office of the county elections official.

8224. Within 20 days after the filing of the petition, the county elections official shall examine it and ascertain from the record of the registration of the voters of the county whether the petition is signed by the requisite number. If needed by the county elections official, the board of supervisors shall authorize him or her to employ persons to assist him or her in the work of examining the petition, and the board shall provide for their compensation.

8225. Upon the completion of his or her examination, the elections official shall forthwith attach to the petition his or her certificate, duly dated, showing the results of his or her examination. If the certificate shows that the petition is signed by the requisite number of voters, he or she shall immediately present the petition to the board of supervisors if it is in session, otherwise at its next meeting.

8226. If it appears by the certificate that the petition has not the required number of signatures, the elections official shall so notify the person designated as the person to whom notification of the insufficiency of the petition is to be sent. The petitioners shall have 30 days from and after the date of receiving the notice of insufficiency to present and file a supplement bearing additional signatures. Upon the receipt of the supplement, the elections official shall proceed forthwith to examine it. He or she shall complete his or her examination within 10 days from the date of its receipt by him or her. If it appears that the additional signatures and those which have not been legally rejected upon the original petition total the requisite number, the county elections official shall forthwith attach to the petition his certificate, duly dated, showing that the petition has been signed by the requisite number of voters, and shall immediately present it to the board of supervisors if it is in session, otherwise at its next meeting.

8227. Upon the adoption of the ordinance or resolution or the presentation of a petition, the board of supervisors shall submit the proposal to the voters at the next succeeding general election, presidential primary, or countywide special election, occurring subsequent to 90 days after the adoption of the ordinance or resolution or the presentation of the petition.

8228. If the proposal is approved by a majority of the votes cast thereon, the board of supervisors shall file a certificate, signed by the chairman of the board and duly dated, with the Secretary of State, reciting that the proposal to adopt subdivision (d) of Section 16 of Article VI of the California Constitution as applicable to the judge of the superior court of the county was approved by a majority of the votes cast thereon at the election. Upon the filing of the certificate the provisions of subdivision (d) of Section 16 of the California Constitution shall thereupon be applicable to the judge of the superior court of that county, and effective as to all vacancies in the

office occurring after the date of filing of the certificate.

PART 2. INDEPENDENT NOMINATIONS

CHAPTER 1. GENERAL PROVISIONS

8300. A candidate for any public office, including that of presidential elector, for which no nonpartisan candidate has been nominated or elected at any primary election, may be nominated subsequent to or in lieu of a primary election pursuant to this chapter.

8301. A candidate for whom a nomination paper has been filed as a partisan candidate at a primary election, and who is defeated for his or her party nomination at the primary election, is ineligible for nomination as an independent candidate.

8302. For the purposes of this chapter, Chapter 1 (commencing with Section 8000) of Part 1, and Part 4 (commencing with Section 8800), so far as consistent with this chapter, shall apply to all offices for which nominations are made at the presidential primary and direct primary elections, as well as to elections for any other office to which those provisions would not ordinarily apply.

8303. Whenever a group of candidates for presidential electors, equal in number to the number of presidential electors to which this state is entitled, files a nomination paper with the Secretary of State pursuant to this chapter, the nomination paper may contain the name of the candidate for President of the United States and the name of the candidate for Vice President of the United States for whom all of those candidates for presidential electors pledge themselves to vote.

8304. When a group of candidates for presidential electors designates the presidential and vice presidential candidates for whom all of the group pledge themselves to vote, the names of the presidential candidate and vice presidential candidate designated by that group shall be printed on the ballot pursuant to Chapter 2 (commencing with Section 13100) of Division 13.

CHAPTER 2. DECLARATION OF INTENTION

8350. (a) A candidate shall file a written and signed declaration of his or her intention to become a candidate for elective office. The declaration shall be left with the officer with whom his or her nomination papers are required to be left, on a form to be supplied by the county elections official, not more than 14 nor less than five days prior to the first day on which nomination papers may be presented by a candidate seeking a party nomination for that office. The declaration shall be substantially in the following form:

"I hereby declare my intention to become a candidate for the office

of _____ (name of office and district, if any) at the November ___, 19___, general election."

(b) No person may be a candidate nor have his or her name printed upon any ballot as a candidate for elective office unless he or she has filed a declaration of intention pursuant to this section.

(c) This section shall not apply to any candidates for presidential elector, the United States House of Representatives, or the United States Senate.

CHAPTER 3. NOMINATION PAPERS

8400. Nomination papers for a statewide office for which the candidate is to be nominated shall be signed by voters of the state equal to not less in number than 1 percent of the entire number of registered voters of the state at the time of the close of registration prior to the preceding general election. Nomination papers for an office, other than a statewide office, shall be signed by the voters of the area for which the candidate is to be nominated, not less in number than 3 percent of the entire number of registered voters in the area at the time of the close of registration prior to the preceding general election. Nomination papers for Representative in Congress, State Senator or Assembly Member, to be voted for at a special election to fill a vacancy, shall be signed by voters in the district not less in number than 500 or 1 percent of the entire vote cast in the area at the preceding general election, whichever is less, nor more than 1,000.

8401. (a) Upon receiving the nomination paper if, from the examination of such pursuant to Section 8400, more than 500 signatures have been signed on the nomination paper petition, the elections official may use a random sampling technique for verification of signatures. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the elections official shall be given an equal opportunity to be included in the sample. The random sampling shall include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

(b) If the statistical sampling shows that the number of valid signatures is within 90 to 110 percent of the number of signatures of qualified voters needed to declare the nomination paper sufficient, the elections official shall examine and verify each signature filed.

(c) In determining from the records of registration, what number of valid signatures are signed on the nomination paper, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles is permitted by law.

(d) The elections official shall attach to the nomination paper, a certificate showing the result of this examination, and shall notify the

candidate of either the sufficiency or insufficiency of the nomination paper.

(e) If the nomination paper is found insufficient, no action shall be taken on the nomination paper. However, the failure to secure sufficient signatures, shall not preclude the submission later of an entirely new nomination paper to the same effect.

(f) If the nomination paper is found to be sufficient, the elections official shall certify the results of the examination.

8402. When a nomination paper or sections of a nomination paper have been received which contain the number of valid signatures required in Section 8400, the officer with whom those papers are required to be left shall not accept additional sections of the nomination paper for the candidate named in it.

8403. (a) (1) Nomination papers shall be prepared, circulated, signed, and delivered to the county elections official for examination no earlier than 148 days before the election and no later than 5 p.m. 88 days before the election.

(2) For offices for which no filing fee is required, nomination papers shall be prepared, circulated, signed, and delivered to the county elections official for examination no earlier than 193 days before the election and no later than 5 p.m. 88 days before the election.

(b) All nomination documents that are required to be filed in the office of the Secretary of State shall, within 24 days after being left with the county elections official in compliance with paragraph (1) or (2) of subdivision (a), be forwarded by the county elections official to the Secretary of State, who shall receive and file them.

(c) If the total number of signatures submitted to a county elections official for an office entirely within that county does not equal the number of signatures needed to qualify the candidate, the county elections official shall declare the petition void and is not required to verify the signatures. If the district falls within two or more counties, the county elections official shall within two working days report in writing to the Secretary of State the total number of signatures submitted.

(d) If the Secretary of State finds that the total number of signatures submitted in the district or state is less than the minimum number required to qualify the candidate he or she shall within one working day notify in writing the counties involved that they need not verify the signatures.

8404. Each signer of a nomination paper shall sign but one paper for the same office, except that in case two or more persons are to be elected to the same office at the same election, an elector may sign the nomination papers of as many persons as there are persons to be elected to the office, and that act on the part of an elector shall not be deemed in conflict with the signer's statement prescribed in this chapter.

The signer shall state his or her place of residence, giving his or her street and number, if any.

8405. Notwithstanding any other provision of law to the contrary, if an independent candidate submits an in-lieu-filing-fee petition pursuant to Section 8106, the county elections official, upon the request of the candidate, shall accept all valid signatures appearing on the candidate's in-lieu-filing-fee petition toward the number of signatures required to be submitted on an in-lieu-filing-fee petition and on a nomination paper.

If the in-lieu-filing-fee petition does not contain the requisite number of signatures required under Section 8400, the candidate shall be entitled to file, within the time period allowed for filing nomination papers, a nomination paper in order to obtain the requisite number of valid signatures required to be submitted to the elections official pursuant to this chapter.

8406. Any nomination paper may be presented in sections, but each section shall contain the name of the candidate and the name of the office for which he or she is proposed for nomination. Each section shall bear the name of the county in which it is circulated.

8407. The affidavit of any circulator obtaining signatures under this chapter shall be verified free of charge by any officer authorized to administer oaths.

8408. A verified nomination paper is prima facie evidence that the signatures to it are genuine and that the persons signing it are voters unless it is otherwise proven by comparison of the signatures with the affidavits of registration in the office of the county elections official.

8409. Each candidate or group of candidates shall submit a nomination paper that shall be substantially in the following form:

County of _____. Nomination paper of _____, candidate for the office of _____.

State of California
County of _____ } ss.

SIGNER'S STATEMENT

I, undersigned, am a voter of the County of _____, State of California. I hereby nominate _____, who resides at No. _____, _____ Street, City of _____, County of _____, State of California, as a candidate for the office of _____ to be voted for at the election to be held on the _____ day of _____, 19__. I have not signed the nomination paper of any other candidate for the same office.

No.	Printed Name	Signature	Residence
1	_____	_____	_____
2	_____	_____	_____
3	_____	_____	_____
4	_____	_____	_____
5	_____	_____	_____
etc.	_____	_____	_____

CIRCULATOR'S AFFIDAVIT

I, _____, solemnly swear (or affirm) that I have been appointed as a circulator to secure signatures in the County of _____ to the nomination paper of _____ as candidate for the office of _____; that the signatures were obtained between _____ 19__ and _____ 19__; that I saw all the signatures on this section of the nomination paper being signed and that, to the best of my information and belief, each signature is the genuine signature of the person whose name it purports to be.

My residence address is _____

(Signed) _____

Circulator

Subscribed and sworn to before me this _____ day of _____, 19__.

_____

(SEAL) Notary Public (or other official)

CHAPTER 4. CIRCULATORS

8450. A candidate shall appoint circulators to serve, within the county in which they reside, for purposes of securing signatures to his or her nomination papers. The persons appointed pursuant to this section shall be authorized to secure signatures to the nomination paper of the candidate in that county. The document in which they are appointed shall be filed with the county elections official of the county in which they reside, at or before the date the nomination papers of the candidate is left with the county elections official for filing or for examination. Additional circulators may be appointed in the same manner as the original circulators are appointed.

8451. Circulators appointed pursuant to this article shall be voters in the district or political subdivision in which the candidate is to be voted on and shall serve only in that district or political subdivision.

8452. A county elections official or a deputy county elections

official shall not be appointed as circulators, and circulators shall not obtain signatures within 100 feet of any election booth or polling place.

8453. Circulators may be appointed by the candidate on a form that shall be substantially in the following form:

I, the undersigned, a candidate for the office of _____, which office is to be voted on at the _____ election to be held on _____ day of _____, 19__, do hereby appoint the following voters of the _____ of _____, as circulators to obtain signatures in that _____ to a nomination paper placing me in nomination as a candidate for that office.

CIRCULATORS

Name	Residence
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

(Signature) _____
(Residence) _____

Filed in the office of the County Elections Official of _____ County this _____ day of _____, 19__.

_____, County Elections Official
By _____, Deputy

8454. (a) Circulators appointed to obtain signatures to the nomination paper of any candidate may, at any time not more than 148 nor less than 88 days prior to the election, obtain signatures to the nomination paper of the candidate.

(b) Circulators appointed to obtain signatures to the nomination paper of any candidate for presidential elector may, at any time not more than 193 nor less than 88 days prior to the election, obtain signatures to the nomination paper of the candidate.

CHAPTER 5. ARRANGEMENT AND EXAMINATION OF NOMINATION PAPERS

8500. Each section of a nomination paper, after being verified, shall be returned by the circulator who circulated it to the candidate by whom the circulator was appointed. All the sections circulated in any area shall be collected by the candidate and shall be arranged for filing and examination.

8501. For all nominations of candidates to be voted for in more than one county or throughout the state, the nomination papers,

properly assembled, may be fastened together by counties, but in no case shall nomination papers signed by voters of different counties be fastened together.

8502. Nomination papers shall be left with the county elections official for examination and filed by him or her pursuant to the time limitations set forth in Section 8403.

8503. The county elections official shall examine all nomination papers left with him or her for filing or for examination and shall disregard and mark "not sufficient" any name appearing on them which does not appear in the same handwriting on an affidavit of registration in his or her office made on or before the date when the name was signed.

8504. Within 24 days after any nomination papers are left for examination, the county elections official shall examine them and prepare a certificate reciting that he or she has examined them, and stating the number of names which have not been marked "not sufficient." The certificate shall be forwarded immediately to the Secretary of State for those offices that are certified by the Secretary of State.

CHAPTER 6. AFFIDAVIT OF CANDIDATE

8550. At least 88 days prior to the election, each candidate shall leave with the officer with whom his or her nomination papers are required to be left, a declaration of candidacy which states all of the following:

(a) The candidate's residence, with street and number, if any.

(b) That the candidate is a voter in the precinct in which he or she resides.

(c) The name of the office for which he or she is a candidate.

(d) That the candidate will not withdraw as a candidate before the election.

(e) That, if elected, the candidate will qualify for the office.

(f) That the candidate is not, and was not at any time during the 13 months preceding the general election at which a candidate for the office mentioned in the declaration of candidacy shall be elected, registered as affiliated with a political party qualified under Section 5100. The statement required by this subdivision shall be omitted for a candidate for presidential elector.

The name of a candidate shall not be placed on the ballot unless the declaration of candidacy provided for in this section has been properly filed.

PART 3. WRITE-IN CANDIDATES

CHAPTER 1. GENERAL

8600. Every person who desires to be a write-in candidate and have his or her name as written on the ballot of an election counted

for a particular office shall file:

(a) A statement of write-in candidacy that contains the following information:

(1) Candidate's name.

(2) Residence address.

(3) A declaration stating that he or she is a write-in candidate.

(4) The title of the office for which he or she is running.

(5) The party nomination which he or she seeks, if running in a primary election.

(6) The date of the election.

(b) The requisite number of signatures on the nomination papers, if any, required pursuant to Sections 8062, 10220, 10510 or, in the case of a special district not subject to the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10), the number of signatures required by the principal act of the district.

8601. The statement and nomination papers shall be available on the 57th day prior to the election for which the candidate is filing as a write-in candidate, and shall be delivered to the elections official responsible for the conduct of the election no later than the 14th day prior to the election.

8602. The nomination papers for a write-in candidate shall be substantially in the same form as set forth in Section 8041.

The document in which circulators are appointed by the write-in candidate shall be designated as set forth in Section 8042.

8603. Signers of nomination papers for write-in candidates shall be voters in the district or political subdivision in which the candidate is to be voted on. In addition, if the candidate is seeking a party nomination for an office, the signers shall also be affiliated with the party whose nomination is sought.

8604. No fee or charge shall be required of a write-in candidate except in the case of a candidate for city office, as provided in Section 10228.

8605. No person whose name has been written in upon a ballot for an office at the direct primary may have his or her name placed upon the ballot as a candidate for that office for the ensuing general election unless one of the following is applicable:

(a) At that direct primary he or she received for that office votes equal in number to 1 percent of all votes cast for the office at the last preceding general election at which the office was filled. In the case of an office that has not appeared on the ballot since its creation, the requisite number of votes shall equal 1 percent of the number of all votes cast for the office that had the least number of votes in the most recent general election in the jurisdiction in which the write-in candidate is seeking office.

(b) He or she is an independent nominee pursuant to Part 2 (commencing with Section 8300).

(c) He or she has been designated by a party central committee to fill a vacancy on the ballot for the general election.

CHAPTER 2. PRESIDENTIAL ELECTORS

8650. Any group of individuals, equal in number to the number of presidential electors to which this state is entitled, who desire to be write-in candidates for presidential electors pledged to a particular candidate for President and Vice President of the United States shall file a declaration of write-in candidacy.

8651. The declaration of write-in candidacy for presidential elector shall contain the following information:

(a) Candidate's name.

(b) Residence address.

(c) A declaration stating that he or she is a write-in candidate for the office of presidential elector.

(d) Oath or affirmation as set forth in Section 3 of Article XX of the California Constitution.

(e) The date of the general election.

(f) The names of the candidates for President and Vice President of the United States for which the group of presidential electors are pledged.

8652. The declaration of write-in candidacy shall be filed with the Secretary of State no later than the 14th day prior to the general election.

8653. Only those names written on the ballot at the general election for the office of President and Vice President of the United States for which a group of presidential electors are pledged on the declaration of write-in candidacy filed pursuant to Section 8650 shall be counted as votes.

CHAPTER 3. TERM LIMITS

8700. (a) FEDERAL LEGISLATIVE CANDIDATES; BALLOT ACCESS. Notwithstanding any other provision of law, the Secretary of State, or other elections official authorized by law, shall not accept or verify the signatures on any nomination paper for any person, nor shall he or she certify or place on the list of certified candidates, nor print or cause to be printed on any ballot, ballot pamphlet, sample ballot, or ballot label the name of any person, who does either of the following:

(1) Seeks to become a candidate for a seat in the United States House of Representatives, and who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the United States House of Representatives representing any portion or district of the State of California during six or more of the previous eleven years;

(2) Seeks to become a candidate for a seat in the United States Senate, and who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the United States Senate representing the State of California during twelve or more of the previous seventeen years.

(b) "WRITE-IN" CANDIDACIES. Nothing in this section shall be construed as preventing or prohibiting any qualified voter of this state from casting a ballot for any person by writing the name of that person on the ballot, or from having such a ballot counted or tabulated, nor shall any provision of this section be construed as preventing or prohibiting any person from standing or campaigning for any elective office by means of a "write-in" campaign.

(c) CONSTRUCTION. Nothing in this section shall be construed as preventing or prohibiting the name of any person from appearing on the ballot at any direct primary or general election unless that person is specifically prohibited from doing so by the provisions of subdivision (a), and to that end, the provisions of subdivision (a) shall be strictly construed.

PART 4. WITHDRAWAL OF CANDIDATES: VACANCIES

8800. No candidate whose declaration of candidacy has been filed for any primary election may withdraw as a candidate at that primary election.

8801. No candidate nominated at any primary election may withdraw as a candidate at the ensuing general election except those candidates permitted to withdraw by this part.

8802. Any person nominated by a party at the direct primary election for a partisan office may be appointed to fill a vacancy on the general election ballot for any other partisan office, as provided in Section 8806, and in that case his or her appointment shall constitute a vacancy on the general election ballot for the office for which he or she was nominated. The vacancy thus arising shall be filled in the manner prescribed in Section 8806.

8803. No vacancy on the ballot for a general election shall be filled except if the candidate dies and that fact has been ascertained by the officer charged with the duty of printing the ballots at least 68 days before the date of the next ensuing general election.

8804. Notwithstanding Sections 8803 and 8810, any candidate who has been nominated at any primary election for superior court judge in which election there were at least two other candidates and who, after the date prescribed for the filing of declaration of candidacy pursuant to Article 2 (commencing with Section 8020) of Chapter 1 of Part 1, has been appointed to any federal or state office, may request the county elections official to have his or her name removed from the ballot of the next ensuing general election. If the request is received by the county elections official at least 68 days before the next ensuing general election, the county elections official shall remove the candidate's name from the ballot.

If a candidate's name is removed from the ballot pursuant to this section, the two remaining candidates who received the highest number of votes cast on all the ballots of all the voters participating in the primary election for nomination for that office of superior court judge shall be the candidates for that office at the ensuing

general election, and their names as candidates for that office shall be placed on the official ballot at the ensuing election.

8805. Whenever a candidate for nomination for a partisan office at a primary election dies on or before the day of the election, and a sufficient number of ballots are marked as being voted for him or her to entitle him or her to nomination if he or she had lived until after the election, a vacancy exists on the general election ballot, which shall be filled in the manner provided in Section 8806 for filling a vacancy caused by the death of a candidate.

8806. Vacancies permitted to be filled may, in the case of legislative offices, be filled by the county central committee or committees of the party in which the vacancy occurs, in the county or counties comprising the legislative district of the deceased candidate. In the case of all other district or state offices requiring party nomination, except congressional offices, the vacancies may be filled by the state central committee of the party.

Vacancies permitted to be filled may, in the case of congressional offices, be filled by those members of the state central committee of the party who reside in the congressional district in which the vacancy occurs, and who were registered to vote in that district at the time the vacancy occurred, acting together with the members of the county central committee or committees of the party residing in that congressional district.

References in this section to state and county central committees shall be construed to refer to the newly elected or selected state and county central committees, unless the organizational meetings of those committees are held in January following the general election.

8807. If the vacancy occurs among candidates chosen at the direct primary to go on the ballot for the succeeding general election for a nonpartisan office, the name of that candidate receiving at the primary election the next highest number of votes shall go upon the ballot to fill the vacancy.

8808. A vacancy authorized to be filled because of the death of a candidate shall be filled, and the name of the person named to fill the vacancy shall be certified to the officer charged with the duty of printing the ballots, 68 days before the day of election.

8809. Whenever a candidate has declared a candidacy for a primary election, the candidate's name shall be printed upon the ballot for the primary election, unless the candidate has died, and that fact has been ascertained by the officer charged with the duty of printing the ballots, at least 68 days before the day of the election.

8810. Whenever a candidate has been nominated at any primary election after having filed a declaration of candidacy, the name of the candidate shall be printed upon the ballot for the ensuing general election unless the candidate has died and that fact has been ascertained by the officer charged with the duty of printing the ballots, at least 68 days before the day of election.

8811. Whenever, upon the death of any candidate, the vacancy created is filled by a party committee, a certificate to that effect shall

be filed with the officer with whom a declaration of candidacy for that office may be filed, and, upon payment of the filing fee applicable to the office, shall be accepted and acted upon by that officer as in the case of an original declaration certificate.

DIVISION 9. MEASURES SUBMITTED TO THE VOTERS

CHAPTER 1. STATE ELECTIONS

Article 1. Initiative and Referendum Petitions

9000. This article applies only to initiative and referendum measures affecting the Constitution or laws of the state.

9001. The heading of a proposed initiative measure shall be in substantially the following form:

Initiative Measure to Be Submitted Directly to the Voters

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the Attorney General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

To the Honorable Secretary of State of California

We, the undersigned, registered, qualified voters of California, residents of _____ County (or City and County), hereby propose amendments to the Constitution of California (the _____ Code, relating to _____) and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed constitutional (or statutory) amendments (full title and text of the measure) read as follows:

9002. Prior to the circulation of any initiative or referendum petition for signatures, a draft of the proposed measure shall be submitted to the Attorney General with a written request that a title and summary of the chief purpose and points of the proposed measure be prepared. The title and summary shall not exceed a total of 100 words.

The persons presenting the request shall be known as the "proponents."

The Attorney General shall preserve the written request until after the next general election.

The written request shall be accompanied by a written statement, signed by each proponent under penalty of perjury, that no

appropriation for a particular project contained within the text of the proposed measure, if any, was included in exchange for a campaign contribution or a pledge for a campaign contribution for purposes of qualifying the proposed measure for the ballot.

9003. In the event that the Attorney General is a proponent of a proposed measure, the title and summary of the chief purpose and points of the proposed measure, including an estimate or opinion on the financial impact of the measure, shall be prepared by the Legislative Counsel, and the other duties of the Attorney General specified in this chapter with respect to the title and summary and an estimate of the financial effect of the measure shall be performed by the Legislative Counsel.

9004. Upon receipt of a draft of a petition, the Attorney General shall prepare a summary of the chief purposes and points of the proposed measure. The summary shall be prepared in the manner provided for the preparation of ballot titles in Article 5 (commencing with Section 9050), the provisions of which in regard to the preparation, filing, and settlement of titles and summaries are hereby made applicable to the summary. The Attorney General shall provide a copy of the title and summary to the Secretary of State within 15 days after receipt of the final version of a proposed initiative measure, or if a fiscal estimate or opinion is to be included, within 15 days after receipt of the fiscal estimate or opinion prepared by the Department of Finance and the Joint Legislative Budget Committee pursuant to Section 9005.

If during the 15-day period, the proponents of the proposed initiative measure submit amendments, other than technical, nonsubstantive amendments, to the final version of the measure, the Attorney General shall provide a copy of the title and summary to the Secretary of State within 15 days after receipt of the amendments.

The proponents of any initiative measure, at the time of submitting the draft of the measure to the Attorney General, shall pay a fee of two hundred dollars ($200), which shall be placed in a trust fund in the office of the Treasurer and refunded to the proponents if the measure qualifies for the ballot within two years from the date the summary is furnished to the proponents. If the measure does not qualify within that period, the fee shall be immediately paid into the General Fund of the state.

9005. Notwithstanding Section 9004, the Attorney General, in preparing a title or summary for an initiative measure, shall determine whether the substance thereof if adopted would affect the revenues or expenditures of the state or local government, and if he or she determines that it would, he or she shall include in the title either the estimate of the amount of any increase or decrease in revenues or costs to the state or local government, or an opinion as to whether or not a substantial net change in state or local finances would result if the proposed initiative is adopted.

The estimates as required by this section shall be made jointly by

the Department of Finance and the Joint Legislative Budget Committee, who shall deliver them to the Attorney General so that he or she may include them in the titles prepared by him or her.

The estimate shall be delivered to the Attorney General within 25 working days from the date of receipt of the final version of the proposed initiative from the Attorney General, unless in the opinion of both the Department of Finance and the Joint Legislative Budget Committee a reasonable estimate of the net impact of the proposed initiative cannot be prepared within the 25-day period. In the latter case, the Department of Finance and the Joint Legislative Budget Committee shall, within the 25-day period, give the Attorney General their opinion as to whether or not a substantial net change in state or local finances would result if the proposed initiative is adopted.

Any statement of fiscal impact prepared by the Legislative Analyst pursuant to subdivision (b) of Section 12172 of the Government Code may be used by the Department of Finance and the Joint Legislative Budget Committee in the preparation of the fiscal estimate or the opinion.

9006. If, for any reason, any initiative or referendum measure proposed by petition as provided by this article is not submitted to the voters at the next succeeding statewide election, that failure shall not prevent its submission at a succeeding statewide election.

9007. Immediately upon the preparation of the summary of an initiative or referendum petition, the Attorney General shall forthwith transmit copies of the text of the measure and summary to the Senate and Assembly. The appropriate committees of each house may hold public hearings on the subject of the measure. However, nothing in this section shall be construed as authority for the Legislature to alter the measure or prevent it from appearing on the ballot.

9008. Every proposed initiative measure, prior to circulation, shall have placed across the top of the petition in 12-point or larger roman boldface type, all of the following:

(a) The summary prepared by the Attorney General upon each page of the petition on which signatures are to appear.

(b) The summary prepared by the Attorney General upon each section of the petition preceding the text of the measure.

(c) The summary prepared by the Attorney General as required by subdivision (b) shall be preceded by the following statement: "Initiative measure to be submitted directly to the voters."

9009. A space at least one inch wide shall be left blank across the top of each page of every initiative petition and after the name of each voter who has signed the petition for the use of the county elections official in verifying the petition.

9010. Across the top of each page of a referendum petition, there shall be printed in 12-point boldface type the following:

"Referendum Against an Act Passed by the Legislature."

9011. Across the top of each page after the first page of every

referendum petition or section of a referendum petition, which is prepared and circulated, there shall be printed in 18-point gothic type a short title, in 20 words or less, showing the nature of the petition and the subject to which it relates.

A space at least one inch wide shall be left blank at the top of each page and after each name, for the use of the county elections official, in verifying the petition.

9012. Officers required by law to receive or file in their offices any initiative or referendum petition shall not receive or file any initiative or referendum petition not in conformity with this article.

9013. Notwithstanding any other provision of law, no initiative shall be placed on a statewide special election ballot that qualifies less than 131 days before the date of the election.

9014. Any initiative or referendum petition may be presented in sections, but each section shall contain a full and correct copy of the title and text of the proposed measure.

9015. The Secretary of State shall prepare and provide to any person, upon request, a pamphlet describing the procedures and requirements for preparing and circulating a statewide initiative measure and for filing sections of the petition, and describing the procedure used in determining and verifying the number of qualified voters who have signed the petition.

Article 2. Petition Signatures

9020. The petition sections shall be designed so that each signer shall personally affix all of the following:

(a) His or her signature.

(b) His or her printed name.

(c) His or her residence address, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(d) The name of his or her incorporated city or unincorporated community.

Only a person who is a qualified registered voter at the time of signing the petition is entitled to sign it.

The number of signatures attached to each section shall be at the pleasure of the person soliciting the signatures.

9021. Any qualified registered voter may circulate an initiative or referendum petition anywhere within the state. Each section of the petition shall bear the name of a county or city and county, and only qualified registered voters of that county or city and county shall sign that section.

Any circulator may sign the section he or she is circulating as provided in Section 106.

9022. (a) Each section shall have attached thereto the declaration of the person soliciting the signatures setting forth the information required by Section 104 and stating that the circulator is a registered voter of the state.

(b) The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury under the laws of the State of California, with the signature of his or her name at length, including given name, middle name or initial. The circulator shall state the date and the place of execution on the declaration immediately preceding his or her signature.

No other declaration thereto shall be required.

Petitions so verified shall be prima facie evidence that the signatures thereon are genuine and that the persons signing are qualified voters. Unless and until otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified voters.

Article 3. Filing Petitions

9030. (a) Each section of the petition shall be filed with the elections official of the county or city and county in which it was circulated, but all sections circulated in any county or city and county shall be filed at the same time. Once filed, no petition section shall be amended except by order of a court of competent jurisdiction.

(b) Within eight days after the filing of the petition, excluding Saturdays, Sundays, and holidays, the elections official shall determine the total number of signatures affixed to the petition and shall transmit this information to the Secretary of State. If the total number of signatures filed with all elections officials is less than 100 percent of the number of qualified voters required to find the petition sufficient, the Secretary of State shall so notify the proponents and the elections officials, and no further action shall be taken with regard to the petition.

(c) If the number of signatures filed with all elections officials is 100 percent or more of the number of qualified voters needed to declare the petition sufficient, the Secretary of State shall immediately so notify the elections officials.

(d) Within 30 days after this notification, excluding Saturdays, Sundays, and holidays, the elections official shall determine the number of qualified voters who have signed the petition. If more than 500 names have been signed on sections of the petition filed with an elections official, the elections official shall use a random sampling technique for verification of signatures, as determined by the Secretary of State. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the elections official shall be given an equal opportunity to be included in the sample. The random sampling shall include an examination of at least 500 or 3 percent of the signatures, whichever is greater. In determining from the records of registration what number of qualified voters have signed the petition, the elections official may use the duplicate file of affidavits of registered voters or the facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(e) The elections official, upon the completion of the examination, shall immediately attach to the petition, except the signatures thereto appended, a properly dated certificate, showing the result of the examination, and shall immediately transmit the petition and the certificate to the Secretary of State. A copy of this certificate shall be filed in the elections official's office.

(f) If the certificates received from all elections officials by the Secretary of State establish that the number of valid signatures does not equal 95 percent of the number of qualified voters needed to find the petition sufficient, the petition shall be deemed to have failed to qualify, and the Secretary of State shall immediately so notify the proponents and the elections officials.

(g) If the certificates received from all elections officials by the Secretary of State total more than 110 percent of the number of qualified voters needed to find the petition sufficient, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of certificates showing the petition to have reached the 110 percent, and the Secretary of State shall immediately so notify the proponents and the elections officials.

9031. (a) If the statistical sampling shows that the number of valid signatures is within 95 to 110 percent of the number of signatures of qualified voters needed to declare the petition sufficient, the Secretary of State shall order the examination and verification of each signature filed, and shall so notify the elections officials.

(b) Within 30 days, excluding Saturdays, Sundays, and holidays, after receipt of the order, the elections official or registrar of voters shall determine from the records of registration what number of qualified voters have signed the petition and if necessary the board of supervisors shall allow the elections official or registrar additional assistance for the purpose of examining the petition and provide for their compensation. In determining from the records of registration what number of qualified voters have signed the petition, the elections official or registrar of voters may use any file or list of registered voters maintained by his or her office, or the facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(c) The elections official or registrar, upon the completion of the examination, shall immediately attach to the petition, except the signatures thereto appended, an amended certificate properly dated, showing the result of the examination and shall immediately transmit the petition, together with the amended certificate, to the Secretary of State. A copy of the amended certificate shall be filed in the elections official's office.

(d) If the amended certificates establish the petition's sufficiency, the petition shall be deemed to be filed as of the date of receipt by the Secretary of State of certificates showing the petition to be signed by the requisite number of voters of the state.

If the amended certificates received from all elections officials by

the Secretary of State establish that the petition has still been found insufficient, the Secretary of State shall immediately so notify the proponents and the elections officials.

9032. The right to file the petition shall be reserved to its proponents, and any section thereof presented for filing by any person or persons other than the proponents of a measure or by persons duly authorized in writing by one or more of the proponents shall be disregarded by the elections official.

9033. When the Secretary of State has received from one or more elections officials or registrars a petition, certified as herein provided to have been signed by the requisite number of qualified voters, the Secretary of State shall forthwith notify the proponents and immediately transmit to the elections official or registrar of voters of every county or city and county in the state, a certificate showing this fact so that signature verification can be terminated. A petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by the Secretary of State of a certificate or certificates showing the petition to be signed by the requisite number of voters of the state. Any elections official shall, upon receipt of the copy, file the notification for record in that office.

9034. Upon the certification of an initiative measure for the ballot, the Secretary of State shall transmit copies of the initiative measure, together with the ballot title as prepared by the Attorney General pursuant to Section 9050, to the Senate and Assembly. Each house shall assign the initiative measure to its appropriate committees. The appropriate committees shall hold joint public hearings on the subject of such measure prior to the date of the election at which the measure is to be voted upon. However, no hearing may be held within 30 days prior to the date of the election.

Nothing in this section shall be construed as authority for the Legislature to alter the initiative measure or prevent it from appearing on the ballot.

9035. An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by registered voters equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the Constitution, of the voters for all candidates for Governor at the last gubernatorial election preceding the issuance of the title and summary for the initiative measure by the Attorney General.

Article 4. Measures Proposed by the Legislature

9040. Every constitutional amendment, bond measure, or other legislative measure submitted to the people by the Legislature shall appear on the ballot of the first statewide election occurring at least 131 days after the adoption of the proposal by the Legislature.

9041. Whenever the Legislature submits any measure to the

voters of the state, the author of the measure and no more than two persons appointed by the author may draft an argument for the adoption of the measure, or the author of the measure may appoint no more than three persons to draft the argument. In no case shall more than three persons write the argument. This argument shall not exceed 500 words in length.

If the author of the measure desires separate arguments to be written in its favor by each person appointed, separate arguments may be written, but the combined length of the arguments shall not exceed 500 words.

9042. If a measure submitted to the voters by the Legislature was not adopted unanimously, one member of each house who voted against it shall be appointed by the presiding officers of the respective houses, at the same time as appointments to draft an argument in its favor are made, to write an argument against the measure. The argument shall not exceed 500 words.

If those members appointed to write an argument against the measure so choose, each may write a separate argument opposing it, but the combined length of the two arguments shall not exceed 500 words.

9043. Arguments prepared by legislators and their appointees shall be submitted to the Secretary of State no later than a date to be designated by the Secretary of State. The arguments may not be amended or changed after submission.

9044. If an argument for or an argument against a measure submitted to the voters by the Legislature has not been filed by a Member of the Legislature, any voter may request the Secretary of State's permission to prepare and file an argument for either side, on which no argument has been prepared by a Member of the Legislature. The Secretary of State shall grant permission unless two or more voters request permission to submit arguments on the same side of a measure, in which event the Secretary of State shall designate one of the voters to write the argument. Any argument prepared pursuant to this section shall be submitted to the Secretary of State by a date sufficient to meet ballot printing deadlines.

Article 5. Ballot Titles

9050. The Attorney General shall provide and return to the Secretary of State a ballot title for each measure submitted to the voters of the whole state.

9051. Any person who is interested in any proposed measure may at any time, prior to 150 days before the election at which the measure is to be voted upon, file a copy of it with the Secretary of State, together with a request that a ballot title be prepared for it. This request shall be accompanied by the address of the person or association of persons proposing the measure. The Secretary of State shall immediately transmit a copy of the measure to the Attorney General. Within 10 days after it is filed, the Attorney General shall

provide and return to the Secretary of State a ballot title for the measure. The ballot title may differ from the legislative or other title of the measure and shall express in not exceeding 100 words the purpose of the measure. In providing the ballot title, the Attorney General shall give a true and impartial statement of the purpose of the measure in such language that the ballot title shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure.

9052. Immediately upon receipt of the ballot title prepared by the Attorney General, the Secretary of State shall mail to all persons who may have requested the preparation of that ballot title, a notice addressed to them at the address accompanying the request, stating that the Attorney General has made and returned the ballot title. The notice shall also contain a copy of the ballot title prepared by the Attorney General.

9053. Each measure shall be designated on the ballot by the ballot title certified to the Secretary of State by the Attorney General.

Article 6. Arguments Concerning Measures Submitted to Voters

9060. In case either the argument for or the argument against any measure placed on the ballot is not prepared and filed, the Secretary of State shall, by a general press release, request voters to submit arguments.

9061. The press release shall be mailed at least 100 days prior to the date of the election at which a measure is to be voted upon.

9062. The press release shall consist of an announcement containing:

(a) A summary of the essential nature or purpose of the measure for or against which no argument has been prepared or filed.

(b) A statement that the affirmative or negative arguments, or both, have not been filed.

(c) An invitation to any voter or group of voters to submit and file with the Secretary of State, within the time limit, arguments for or against the measure as to which affirmative or negative arguments have not been filed.

9063. The summary of a measure given in the press release shall be the official summary that has been prepared by the Attorney General. The Legislative Counsel Bureau shall prepare the summary on all other measures.

9064. Any voter or group of voters may, at any time within the time limit, prepare and file with the Secretary of State an argument for or against any measure as to which arguments have not been prepared or filed. This argument shall not exceed 500 words in length.

9065. A ballot argument shall not be accepted under this article unless accompanied by all of the following:

(a) The name, business or home address, and telephone number of each person submitting the argument.

(b) If the argument is submitted on behalf of an organization, the name, business address, and telephone number of the organization and of at least two of its principal officers.

(c) The name, business or home address, and telephone number of a contact person for each individual or organization submitting the argument.

(d) If the argument is signed by anyone other than the proponent or legislative author, the name and official title of the person or persons authorized by the proponent to sign the argument.

(e) The signed statement required by Section 9600.

(f) No person signing an argument for or against a measure or a rebuttal to an argument for or against a measure may identify himself or herself in reference to that signature as a candidate for any office.

9066. A ballot argument or a rebuttal argument that includes in its text the name or title of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of that person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, association, committee, labor organization, and any other organization or group of persons.

9067. If more than one argument for or more than one argument against any measure is filed within the time prescribed, the Secretary of State shall select one of the arguments for printing in the ballot pamphlets. In selecting the argument the Secretary of State shall give preference and priority in the order named to the arguments of the following:

(a) In the case of a measure submitted by the Legislature, Members of the Legislature.

(b) In the case of an initiative or referendum measure, the proponent of the petition.

(c) Bona fide associations of citizens.

(d) Individual voters.

9068. (a) No more than three signatures shall appear with any argument printed in the ballot pamphlet. In case any argument is signed by more than three persons the signatures of the first three shall be printed.

(b) The Secretary of State shall provide, upon request, the name of, and a telephone number for, each signer of a ballot argument printed in the ballot pamphlet.

9069. When the Secretary of State has received the arguments that will be printed in the ballot pamphlet, the Secretary of State, within five days of receipt thereof, shall send copies of the arguments in favor of the proposition to the authors of the arguments against and copies of the arguments against to the authors of the arguments in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words, or may authorize in writing any other

person or persons to prepare, submit, or sign the rebuttal argument. The rebuttal arguments shall be filed with the Secretary of State no later than a date to be designated by the Secretary of State.

Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

Article 7. Ballot Pamphlet

9080. The provisions of Sections 9084 to 9093, inclusive, are a restatement of, and shall be construed in conformity with, Sections 88001 to 88007, inclusive, of the Government Code.

9081. There shall be a state ballot pamphlet, that the Secretary of State shall prepare.

9082. The Secretary of State shall cause to be printed as many ballot pamphlets as needed to comply with this code.

The ballot pamphlets shall be printed in the Office of State Printing unless the Director of General Services determines that the printing of the pamphlets in the Office of State Printing cannot be done adequately, competently, or satisfactorily, in which case the Secretary of State, subject to the approval of the Director of General Services, shall contract with a private printing concern for the printing of all or a part of the pamphlets.

Copy for preparation of the ballot pamphlets shall be furnished to the Office of State Printing at least 40 days prior to the date for required delivery to the elections officials as provided in Section 9094.

9083. If the ballot contains a question as to the confirmation of a justice of the Supreme Court or a court of appeal, the Secretary of State shall include in the state ballot pamphlet a written explanation of the electoral procedure for justices of the Supreme Court and the courts of appeal. The explanation shall state the following:

"Under the California Constitution, justices of the Supreme Court and the courts of appeal are subject to confirmation by the voters. The public votes "yes" or "no" on whether to retain each justice.

"These judicial offices are nonpartisan.

"Before a person can become an appellate justice, the Governor must submit the candidate's name to the Judicial Nominees Evaluation Commission, which is comprised of public members and lawyers. The commission conducts a thorough review of the candidate's background and qualifications, with community input, and then forwards its evaluation of the candidate to the Governor.

"The Governor then officially nominates the candidate, whose qualifications are subject to public comment before examination and review by the Commission on Judicial Appointments. That commission consists of the Chief Justice of California, the Attorney General of California, and a senior Presiding Justice of the Courts of Appeal. The Commission on Judicial Appointments must then confirm or reject the nomination. Only if confirmed does the

nominee become a justice.

"Following confirmation, the justice is sworn into office and is subject to voter approval at the next gubernatorial election, and thereafter at the conclusion of each term."

9084. The ballot pamphlet shall contain all of the following:

(a) A complete copy of each state measure.

(b) A copy of the specific constitutional or statutory provision, if any, that each state measure would repeal or revise.

(c) A copy of the arguments and rebuttals for and against each state measure.

(d) A copy of the analysis of each state measure.

(e) Tables of contents, indexes, art work, graphics and other materials that the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.

(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county elections official upon request.

(g) A written explanation of the judicial retention procedure as required by Section 9083.

9085. (a) The ballot pamphlet shall also contain a section, located near the front of the pamphlet, that provides a concise summary of the general meaning and effect of "yes" and "no" votes on each state measure.

(b) The summary statements required by this section shall be prepared by the Legislative Analyst. These statements are not intended to provide comprehensive information on each measure. The Legislative Analyst shall be solely responsible for determining the contents of these statements. The statements shall be available for public examination and amendment pursuant to Section 9092.

(c) This section shall remain in effect only until January 1, 1999, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

9086. The ballot pamphlet shall contain as to each state measure to be voted upon, the following, in the order set forth in this section:

(a) Upon the top portion of the first page, and not exceeding one-third of the page, shall appear:

(1) Identification of the measure by number and title.

(2) The official summary prepared by the Attorney General.

(3) The total number of votes cast for and against the measure in both the State Senate and Assembly, if the measure was passed by the Legislature.

(b) Beginning at the top of the right page shall appear the analysis prepared by the Legislative Analyst, provided that the analysis fits on a single page. If it does not fit on a single page, the analysis shall begin on the lower portion of the first left page and shall continue on subsequent pages until it is completed.

(c) Arguments for and against the measure shall be placed on the next left and right pages, respectively, following the final page of the analysis of the Legislative Analyst ends. The rebuttals shall be placed

immediately below the arguments.

(d) If no argument against the measure has been submitted, the argument for the measure shall appear on the right page facing the analysis.

(e) The complete text of each measure shall appear at the back of the pamphlet. The text of the measure shall contain the provisions of the proposed measure and the existing provisions of law repealed or revised by the measure. The provisions of the proposed measure differing from the existing provisions of law affected shall be distinguished in print, so as to facilitate comparison.

(f) The following statement shall be printed at the bottom of each page where arguments appear: "Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency."

9087. The Legislative Analyst shall prepare an impartial analysis of the measure describing the measure and including a fiscal analysis of the measure showing the amount of any increase or decrease in revenue or cost to state or local government. Any estimate of increased cost to local governments shall be set out in boldface print in the ballot pamphlet. The analysis shall be written in clear and concise terms, so as to be easily understood by the average voter, and shall avoid the use of technical terms wherever possible. The analysis may contain background information, including the effect of the measure on existing law and the effect of enacted legislation which will become effective if the measure is adopted, and shall generally set forth in an impartial manner the information the average voter needs to adequately understand the measure. The Legislative Analyst may contract with professional writers, educational specialists or other persons for assistance in writing an analysis that fulfills the requirements of this section, including the requirement that the analysis be written so that it will be easily understood by the average voter. The Legislative Analyst may also request the assistance of any state department, agency, or official in preparing his or her analysis. Prior to submitting the analysis to the Secretary of State, the Legislative Analyst shall submit the analysis to a committee of five persons, appointed by the Legislative Analyst, for the purpose of reviewing the analysis to confirm its clarity and easy comprehension to the average voter. The committee shall be drawn from the public at large, and one member shall be a specialist in education, one shall be bilingual, and one shall be a professional writer. Members of the committee shall be reimbursed for reasonable and necessary expenses incurred in performing their duties. Within five days of the submission of the analysis to the committee, the committee shall make such recommendations to the Legislative Analyst as it deems appropriate to guarantee that the analysis can be easily understood by the average voter. The Legislative Analyst shall consider the committee's recommendations, and he or she shall incorporate in the analysis those changes recommended by the committee that he or she deems

to be appropriate. The Legislative Analyst is solely responsible for determining the content of the analysis required by this section. The title of the measure that appears on the ballot shall be amended to contain a summary of the Legislative Analyst's estimate of the net state and local government financial impact.

9088. (a) At each statewide election at which state bond measures will be submitted to the voters for their approval or rejection, the ballot pamphlet for that election shall include a discussion, prepared by the Legislative Analyst, of the state's current bonded indebtedness situation.

(b) This discussion shall include information as to the dollar amount of the state's current authorized and outstanding bonded indebtedness, the approximate percentage of the state's General Fund revenues which are required to service this indebtedness, and the expected impact of the issuance of the bonds to be approved at the election on the items specified in this subdivision.

(c) The discussion required by this section shall appear on a separate page in the ballot pamphlet immediately following the rebuttal to the argument against the last ballot measure included in the ballot pamphlet.

9089. Measures shall be printed in the ballot pamphlet, so far as possible, in the same order, manner and form in which they are designated upon the ballot.

9090. The ballot pamphlet shall be printed according to the following specifications:

(a) The pages of the pamphlet shall be not smaller than 8½ x 11 inches in size.

(b) The pamphlet shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in eight-point type.

(c) The pamphlet shall be printed on a quality and weight of paper which, in the judgment of the Secretary of State, best serves the voters.

(d) The pamphlet shall contain a certificate of correctness by the Secretary of State.

9091. The Legislative Counsel shall prepare and proofread the texts of all measures and the provisions which are repealed or revised.

9092. Not less than 20 days before he or she submits the copy for the ballot pamphlet to the State Printer, the Secretary of State shall make the copy available for public examination. Any voter may seek a writ of mandate requiring any copy to be amended or deleted from the ballot pamphlet. A peremptory writ of mandate shall issue only upon clear and convincing proof that the copy in question is false, misleading, or inconsistent with the requirements of this code or Chapter 8 (commencing with Section 88000) of Title 9 of the Government Code, and that issuance of the writ will not substantially interfere with the printing and distribution of the ballot pamphlet as required by law. Venue for a proceeding under this section shall be

exclusively in Sacramento County. The Secretary of State shall be named as the respondent and the State Printer and the person or official who authored the copy in question shall be named as real parties in interest. If the proceeding is initiated by the Secretary of State, the State Printer shall be named as the respondent.

9093. Notwithstanding Section 81012 of the Government Code, the Legislature may without restriction amend this article to add to the ballot pamphlet information regarding candidates or any other information.

9094. (a) The Secretary of State shall mail ballot pamphlets to voters, in those instances in which the county clerk uses data processing equipment to store the information set forth in the affidavits of registration, before the election at which measures contained in the ballot pamphlet are to be voted on. The mailing shall commence not less than 40 days before the election and shall be completed no later than 21 days before the election for those voters who registered on or before the 60th day before the election. The Secretary of State shall mail one copy of the ballot pamphlet to each registered voter at the postal address stated on the voter's affidavit of registration, or the Secretary of State may mail only one ballot pamphlet to two or more registered voters having the same surname and the same postal address.

(b) In those instances in which the county clerk does not utilize data processing equipment to store the information set forth in the affidavits of registration, the Secretary of State shall furnish ballot pamphlets to the county clerk not less than 45 days before the election at which measures contained in the ballot pamphlet are to be voted on and the county clerk shall mail ballot pamphlets to voters, on the same dates and in the same manner provided by subdivision (a).

(c) The Secretary of State shall provide for the mailing of ballot pamphlets to voters registering after the 60th day before the election and before the 28th day before the election, by either: (1) mailing in the manner as provided in subdivision (a), or (2) requiring the county clerk to mail ballot pamphlets to those voters registering in the county after the 60th day before the election and before the 28th day before the election pursuant to the provisions of this section. The second mailing of ballot pamphlets shall be completed no later than 10 days before the election. The county clerk shall mail a ballot pamphlet to any person requesting a ballot pamphlet. Three copies, to be supplied by the Secretary of State, shall be kept at every polling place, while an election is in progress, so that they may be freely consulted by the voters.

(Added by Stats. 1994, Ch. 1189.)

[ORIGINAL SECTION]

9094. (a) The Secretary of State shall mail ballot pamphlets to voters, in those instances in which the county elections official uses data processing equipment to store the information set forth in the affidavits of registration, before the election at which measures contained in the ballot pamphlet are to be voted on. The mailing shall commence not more than 40 days before the election and shall be completed no later than 21 days before the election for those voters who registered on or before the 60th day before the election. The Secretary of State shall mail one copy of the ballot

pamphlet to each registered voter at the postal address stated on the voter's affidavit of registration, or the Secretary of State may mail only one ballot pamphlet to two or more registered voters having the same surname and the same postal address.

(b) In those instances in which the county elections official does not utilize data processing equipment to store the information set forth in the affidavits of registration, the Secretary of State shall furnish ballot pamphlets to the county elections official not less than 45 days before the election at which measures contained in the ballot pamphlet are to be voted on and the county elections official shall mail ballot pamphlets to voters, on the same dates and in the same manner provided by subdivision (a).

(c) The Secretary of State shall provide for the mailing of ballot pamphlets to voters registering after the 60th day before the election and before the 28th day before the election, by either: (1) mailing in the manner as provided in subdivision (a), or (2) requiring the county elections official to mail ballot pamphlets to those voters registering in the county after the 60th day before the election and before the 28th day before the election pursuant to the provisions of this section. The second mailing of ballot pamphlets shall be completed no later than 10 days before the election. The county elections official shall mail a ballot pamphlet to any person requesting a ballot pamphlet. Three copies, to be supplied by the Secretary of State, shall be kept at every polling place, while an election is in progress, so that they may be freely consulted by the voters.

9095. Any costs incurred by a county for mailing the ballot pamphlets pursuant to the provisions of subdivisions (b) and (c) of Section 9094 shall be reimbursed to the county by the Secretary of State.

9096. (a) As soon as copies of the ballot pamphlet are available, the Secretary of State shall immediately mail the following number of copies to the listed persons and places:

(1) Five copies to each county elections official or registrar of voters;

(2) Six copies to each city elections official.

(3) Five copies to each Member of the Legislature.

(4) Five copies to the proponents of each ballot measure.

(b) The Secretary of State shall also mail:

(1) Two copies to each public library and branch thereof.

(2) Twelve copies to each public high school or other public school teaching at least the 11th and 12th grades, and 25 copies to each public public institution of higher learning. Upon request, and in the discretion of the Secretary of State, additional copies may be furnished to these persons and institutions.

CHAPTER 2. COUNTY ELECTIONS

Article 1. Initiative

9100. In addition to any other method provided by law, ordinances may be enacted by any county pursuant to this article.

9101. Any proposed ordinance may be submitted to the board of supervisors by filing an initiative petition with the county elections official, signed by not less than the number of voters specified in this article.

Each petition section shall comply with Sections 100 and 9020 and contain a full and correct copy of the notice of intention and accompanying statement including the full text of the proposed ordinance.

9102. Any proposal to enact, amend, or otherwise revise a county charter by initiative petition may be submitted to the board of supervisors and shall be subject to this article. However, nothing in this article shall be construed to allow a board of supervisors to enact, amend, or otherwise revise a county charter without submitting the proposal to the voters.

9103. (a) Before circulating any initiative petition in a county, or any petition relating to the annexation of territory by a county, the consolidation of counties, or the dissolution of a county, its proponents shall file with the county elections official a notice of intention to do so. The notice shall include the names and business or residence addresses of at least one but not more than five proponents of the petition, and shall be accompanied by the written text of the initiative and a request that a ballot title and summary be prepared.

(b) Any person filing a notice of intent with the county elections official shall pay a fee to be established by the board of supervisors not to exceed two hundred dollars ($200) to be refunded to the filer if, within one year of the date of filing the notice of intent, the county elections official certifies the sufficiency of the petition.

9104. The notice of intention shall contain the printed name, signature, and business or residence address of at least one but not more than five proponents, and may include a printed statement, not exceeding 500 words in length, stating the reasons for the proposed petition. The notice shall be in substantially the following form:

Notice of Intention to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the County of _____ for the purpose of _____. A statement of the reasons of the proposed action as contemplated in the petition is as follows: (optional statement).

9105. (a) The county elections official shall immediately transmit a copy of any proposed measure to the county counsel. Within 15 days after the proposed measure is filed, the county counsel shall provide and return to the county elections official a ballot title and summary for the proposed measure. The ballot title may differ from any other title of the proposed measure and shall express in 500 words or less the purpose of the proposed measure. In providing the ballot title, the county counsel shall give a true and impartial statement of the purpose of the proposed measure in such language that the ballot title shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure.

(b) The county elections official shall furnish a copy of the ballot title and summary to the proponents of the proposed measure. The

proponents shall, prior to the circulation of the petition, publish the Notice of Intention, and the ballot title and summary of the proposed measure in a newspaper of general circulation published in that county, and file proof of publication with the county elections official.

(c) The ballot title and summary prepared by the county counsel shall appear upon each section of the petition, above the text of the proposed measure and across the top of each page of the petition on which signatures are to appear, in roman boldface type not smaller than 12-point. The ballot title and summary shall be clearly separated from the text of the measure.

The heading of the proposed measure shall be in substantially the following form:

Initiative Measure To Be Submitted Directly to the Voters

The county counsel has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the county counsel. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

9106. The proponent may seek a writ of mandate requiring the ballot title or summary prepared by the county counsel to be amended. The court shall expedite hearing on the writ. A peremptory writ of mandate shall be issued only upon clear and convincing proof that the ballot title or summary is false, misleading, or inconsistent with the requirements of Section 9105.

9107. The county elections official shall ascertain the number of signatures required to sign the petition by obtaining the number of votes cast within the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate the initiative petition.

9108. The proponents may commence to circulate the petitions among the voters of the county for signatures by any registered voter of the county after publication of the title and summary prepared by the county counsel. Each section of the petition shall bear a copy of the notice of intention, and the title and summary prepared by the county counsel.

9109. Each petition section shall have attached to it an affidavit to be completed by the circulator. The affidavit shall be substantially in the same form as set forth in Section 104.

9110. Signatures shall be secured and the petition shall be presented to the county elections official for filing within 180 days from the date of receipt of the title and summary, or after termination of any action for a writ of mandate pursuant to Section 9106 and, if applicable, after receipt of an amended title or summary or both, whichever occurs later.

9111. (a) During the circulation of the petition or before taking either action described in subdivisions (a) and (b) of Section 9116,

or Section 9118, the board of supervisors may refer the proposed initiative measure to any county agency or agencies for a report on any or all of the following:

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the county's general and specific plans including the housing element, the consistency between planning and zoning, the limitations on county actions under Section 65008 of the Government Code, and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Any other matters the board of supervisors request to be in the report.

(b) The report shall be presented to the board of supervisors within the time prescribed by the board of supervisors but no later than 30 days after the county elections official certifies to the board of supervisors the sufficiency of the petition.

9112. On or before April 1 of each odd-numbered year, the county elections official of each county shall file a report with the Secretary of State containing the following information:

(a) The number of county initiative petitions circulated during the preceding two calendar years that did not qualify for the ballot, and the number of these proposed initiatives for which reports were prepared pursuant to Section 9111.

(b) With respect to county initiative measures that qualified for the ballot in the preceding two calendar years, the number that were approved by the voters, and the number of these ballot measures for which reports were prepared pursuant to Section 9111.

(c) With respect to county initiative measures that qualified for the ballot in the preceding two calendar years, the number which were not approved by the voters, and the number of these ballot measures for which reports were prepared pursuant to Section 9111.

9113. The petition shall be filed by the proponents, or by any person or persons authorized in writing by the proponents. All sections of the petition shall be filed at one time. Any sections of the petition not so filed shall be void for all purposes. Once filed, no petition section shall be amended except by order of a court of competent jurisdiction.

When the petition is filed, the county elections official shall determine the total number of signatures affixed to the petition. If, from this examination, the county elections official determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, the county elections official shall examine the petition in accordance with Section 9114 or 9115. If, from this examination, the county elections official determines that the number of signatures, prima facie, does not equal or exceed the minimum number of signatures required, no further action shall be taken.

9114. Except as provided in Section 9115, within 30 days from the date of filing of the petition, excluding Saturdays, Sundays, and

holidays, the elections official shall examine the petition, and from the records of registration ascertain whether or not the petition is signed by the requisite number of voters. A certificate showing the results of this examination shall be attached to the petition.

In determining the number of valid signatures, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

The elections official shall notify the proponents of the petition as to the sufficiency or insufficiency of the petition.

If the petition is found insufficient, no further action shall be taken. However, the failure to secure sufficient signatures, shall not preclude the filing of a new petition on the same subject, at a later date.

If the petition is found sufficient, the elections official shall certify the results of the examination to the board of supervisors at the next regular meeting of the board.

9115. (a) Within 30 days from the date of filing of the petition, excluding Saturdays, Sundays, and holidays, if, from the examination of petitions pursuant to Section 9114 shows that more than 500 signatures have been signed on the petition, the elections official may use a random sampling technique for verification of signatures. The random sample of signatures to be verified shall be drawn so that every signature filed with the elections official shall be given an equal opportunity to be included in the sample. The random sampling shall include an examination of at least 500, or 3 percent of the signatures, whichever is greater.

(b) If the statistical sampling shows that the number of valid signatures is within 95 to 110 percent of the number of signatures of qualified voters needed to declare the petition sufficient, the elections official shall examine and verify each signature filed.

(c) In determining from the records of registration, what number of valid signatures are signed on the petition, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(d) The elections official shall attach to the petition, a certificate showing the result of this examination, and shall notify the proponents of either the sufficiency or insufficiency of the petition.

(e) If the petition is found insufficient, no action shall be taken on the petition. However, the failure to secure sufficient signatures shall not preclude the filing later of an entirely new petition to the same effect.

(f) If the petition is found to be sufficient, the elections official shall certify the results of the examination to the board of supervisors at the next regular meeting of the board.

9116. If the initiative petition is signed by voters not less in number than 20 percent of the entire vote cast within the county for

all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate an initiative petition, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the board of supervisors shall either:

(a) Pass the ordinance without alteration either at the regular meeting at which it is presented, or within 10 days after it is presented.

(b) Immediately call a special election at which the ordinance, without alteration, shall be submitted to a vote of the voters of the county.

(c) Order a report pursuant to Section 9111 at the regular meeting at which the ordinance is presented. When the report is presented to the board of supervisors, it shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

9117. When it is legally possible to hold a special election under this article within six months prior to a regular election, the board of supervisors may submit the proposed ordinance at that regular election instead of at a special election.

In all other cases, the board of supervisors shall call a special election, to be held not less than 88 nor more than 103 days after the date of the presentation of the proposed ordinance to the board. However, to avoid holding more than one election within any six months, the date for holding the special election may be fixed later than 103 days after the date of the presentation of the proposed ordinance to the board, but at as early a date as practicable after the expiration of the six months.

Not more than one special election may be held pursuant to this article during any period of six months.

9118. If the initiative petition is signed by voters not less in number than 10 percent of the entire vote cast in the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate an initiative petition, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a special election, and is not passed without change by the board of supervisors, the ordinance, without alteration, shall be submitted by the board to the voters at the next statewide election occurring not less than 88 days after the date of the order, or after the board of supervisors is presented with a report prepared pursuant to Section 9711.

9119. Whenever any ordinance is required by this article to be submitted to the voters of a county at any election, the county elections official shall cause the ordinance to be printed. A copy of the ordinance shall be made available to any voter upon request.

9120. Article 3 (commencing with Section 9160) shall govern the procedures for submitting arguments for county initiatives.

9121. Any number of proposed ordinances may be voted upon at the same election.

9122. If a majority of the voters voting on a proposed ordinance vote in its favor, the ordinance shall become a valid and binding ordinance of the county. The ordinance shall be considered as adopted upon the date the vote is declared by the board of supervisors, and shall go into effect 10 days after that date.

9123. If the provisions of two or more ordinances adopted at the same election conflict, the ordinance receiving the highest number of affirmative votes shall control.

9124. The enacting clause of an ordinance submitted to the voters of a county shall be substantially in the following form:

"The people of the County of _____ ordain as follows:"

9125. No ordinance proposed by initiative petition and adopted either by the board of supervisors without submission to the voters or adopted by the voters shall be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance. In all other respects, an ordinance proposed by initiative petition and adopted shall have the same force and effect as any ordinance adopted by the board of supervisors.

9126. This article does not apply to any statewide initiative measure.

Article 2. Referendum

9140. The board of supervisors may submit to the voters, without a petition, an ordinance for the repeal, amendment, or enactment of any ordinance. The ordinance shall be voted upon at any succeeding regular or special election and, if it receives a majority of the votes cast, the ordinance shall be repealed, amended, or enacted accordingly.

9141. (a) Except an ordinance granting a franchise, the following ordinances shall take effect immediately:

(1) Those calling or otherwise relating to an election.

(2) Those specifically required by law to take immediate effect.

(3) Those fixing the amount of money to be raised by taxation or the rate of taxes to be levied.

(4) Those for the immediate preservation of the public peace, health, or safety. The ordinances referred to in this subdivision shall contain a declaration of the facts constituting the necessity and shall be passed by a four-fifths vote of the board of supervisors.

(b) All other ordinances, including ordinances granting a franchise, shall become effective 30 days from and after the date of final passage.

9142. (a) Notwithstanding Section 9141, ordinances authorizing the issuance of revenue bonds by a county as part of a joint powers entity pursuant to Section 6547 of the Government Code shall not take effect for 60 days.

(b) When the number of votes cast for all candidates for Governor at the last gubernatorial election within the boundaries of the county described in subdivision (a) exceeds 500,000, the ordinance is subject to referendum upon presentation of a petition bearing signatures of

at least 5 percent of the entire vote cast within the boundaries of the county for all candidates for Governor at the last gubernatorial election. When the number of votes cast for all candidates for Governor at the last gubernatorial election within the boundaries of the county is less than 500,000, the ordinance is subject to referendum upon presentation of a petition bearing signatures of at least 10 percent of the entire vote cast within the boundaries of the county for all candidates for Governor at the last gubernatorial election.

(c) For the purpose of submitting the question to the voters pursuant to subdivision (b), the ballot wording shall approximate the following:

"Shall the _____,
(county name)
as a member of the _____,
(joint powers entity name)
authorize the issuance of revenue bonds by the joint powers entity in the amount of $_____ pursuant to ordinance number _____, dated _____, the bonds to be used for the following purposes and to be redeemed in the following manner: _____?"

9143. Notwithstanding Section 9141, that portion of any ordinance that changes supervisorial salaries shall become effective 60 days from the date of its final passage.

9144. If a petition protesting the adoption of an ordinance is presented to the board of supervisors prior to the effective date of the ordinance, the ordinance shall be suspended and the supervisors shall reconsider the ordinance. The petition shall be signed by voters of the county equal in number to at least 10 percent of the entire vote cast within the county for all candidates for Governor at the last gubernatorial election.

9145. If the board of supervisors does not entirely repeal the ordinance against which a petition is filed, the board shall submit the ordinance to the voters either at the next regularly scheduled county election occurring not less than 88 days after the date of the order, or at a special election called for that purpose not less than 88 days after the date of the order. The ordinance shall not become effective unless and until a majority of the voters voting on the ordinance vote in favor of it.

9146. The provisions of this code relating to the form of petitions, the duties of the county elections official, and the manner of holding elections, when an ordinance is proposed by initiative petition, govern the procedure on ordinances against which a protest is filed.

9147. (a) The heading of a proposed referendum measure shall be in substantially the following form:

Referendum Against an Ordinance Passed by the Board of Supervisors.

(b) Each section of the referendum petition shall contain the title

and text of the ordinance or the portion of the ordinance which is the subject of the referendum.

Article 3. Arguments Concerning County Measures

9160. (a) Whenever any county measure qualifies for a place on the ballot, the county elections official shall transmit a copy of the measure to the county auditor and to the county counsel or to the district attorney in any county which has no county counsel.

(b) The county counsel or district attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The analysis shall be printed preceding the arguments for and against the measure. The analysis shall not exceed 500 words in length.

In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point boldface type, a legend substantially as follows:

"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

(c) Not later than 88 days prior to an election that includes a county ballot measure, the board of supervisors may direct the county auditor to review the measure and determine whether the substance thereof, if adopted, would affect the revenues or expenditures of the county. He or she shall prepare a fiscal impact statement which estimates the amount of any increase or decrease in revenues or costs to the county if the proposed measure is adopted. The fiscal impact statement is "official matter" within the meaning of Section 13303, and shall be printed preceding the arguments for and against the measure. The fiscal impact statement shall not exceed 500 words in length.

9161. If there is no other method provided by law, arguments for and against any county measure may be submitted to the qualified voters of the county pursuant to this article. If a method is otherwise provided by law for submitting such arguments as to a particular kind of county measure, that method shall control.

9162. The board of supervisors or any member or members of the board authorized by the board, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of these voters and associations may file a written argument for or against any county measure. No argument shall exceed 300 words in length. The county elections official shall cause an argument for and an argument against the measure, and the analysis of the measure, to be printed, and shall enclose a copy of both arguments preceded by the analysis with each sample ballot. The printed arguments and the analysis are "official matter" within the meaning of Section 13303.

The following statement shall be printed on the front cover, or if none, on the heading of the first page, of the printed arguments:

"Arguments in support of or in opposition to the proposed laws are the opinions of the authors."

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure _____" or "Argument Against Measure _____," accordingly, the blank spaces being filled in only with the letter or number, if any, which designates the measure. At the discretion of the county elections official, the word "Proposition" may be substituted for the word "Measure" in the titles. Words used in the title shall not be counted when determining the length of any argument.

9163. Based on the time reasonably necessary to prepare and print the arguments, analysis, and sample ballots and to permit the 10-calendar-day public examination as provided in Article 5 (commencing with Section 9190) for the particular election, the county elections official shall fix and determine a reasonable date prior to the election after which no arguments for or against any county measure may be submitted for printing and distribution to the voters as provided in this article. Notice of the date fixed shall be published by the county elections official pursuant to Section 6061 of the Government Code. Arguments may be changed until and including the date fixed by the county elections official.

9164. A ballot argument shall not be accepted under this article unless accompanied by the name or names of the person or persons submitting it, or, if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers.

No more than five signatures shall appear with any argument submitted under this article. In case any argument is signed by more than five persons, the signatures of the first five shall be printed.

9165. A ballot argument or a rebuttal argument which includes in its text the name or title of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of that person. The consent of a person other than an individual shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, association, committee, labor organization, and any other organization or group of persons.

9166. If more than one argument for or more than one argument against any county measure is submitted to the county elections official within the time prescribed, the county elections official shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the argument the county elections official shall give preference and priority in the order named to the arguments of the following:

(a) The board of supervisors, or member or members of the board authorized by the board.

(b) The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.

(c) Bona fide associations of citizens.

(d) Individual voters who are eligible to vote on the measure.

9167. When the county elections official has selected the arguments for and against the measure which will be printed and distributed to the voters, the elections official shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments must be filed with the county elections official not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut and shall be titled "Rebuttal To Argument In Favor Of Measure (or Proposition) _____" or "Rebuttal To Argument Against Measure (or Proposition) _____," the blank spaces being filled in only with the letter or number, if any, which designates the measure. Words used in the title shall not be counted when determining the length of any rebuttal argument.

9168. (a) Notwithstanding any provision of law to the contrary, this article shall apply to any district bond election called by, and the returns of which are canvassed by, the board of supervisors, or to any district bond election conducted by a district. This article shall also apply to any special election, if the board of supervisors so provides in its proclamation or notice thereof.

(b) At any election subject to this section:

(1) "County measure" shall be deemed to refer to any measure as defined in Section 329. Section 312 shall not apply.

(2) Section 9160, and the reference to the analysis of the measure in Section 9162, shall not apply unless the board of supervisors directs the officer to prepare the analysis.

(c) This article shall not apply to any school district bond election.

Article 4. Mailings

9180. Whenever the county elections official is required to mail official matter, as provided in Sections 9119, 9120, 9160, 9162, and 9167, only one copy of each official matter shall be mailed to a postal address where two or more registered voters have the same surname and the same postal address.

This section shall only apply if the board of supervisors adopts this section.

Article 5. Public Examinations

9190. Not less than 10 calendar days before the county elections official submits the official election materials referred to in Sections 9119, 9120, 9160, 9162, and 9167 for printing, the county elections official shall make a copy of the materials available for public examination in the county elections official's office. Any person may obtain a copy of the materials from the county elections official for use outside of the county elections official's office. The county elections official may charge a fee to any person obtaining a copy of the material. The fee shall not exceed the actual cost incurred by the county elections official in providing the copy.

During the 10-calendar-day examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the county elections official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted. A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The county elections official shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest. In the case of the county elections official bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.

CHAPTER 3. MUNICIPAL ELECTIONS

Article 1. Initiative

9200. Ordinances may be enacted by and for any incorporated city pursuant to this article.

9201. Any proposed ordinance may be submitted to the legislative body of the city by a petition filed with the elections official of the legislative body, in the manner hereinafter prescribed, after being signed by not less than the number of voters specified in this article. The petition may be in separate sections, providing that the petition complies with this article. The first page of each section shall contain the title of the petition and the text of the measure. The petition sections shall be designated in the manner set forth in Section 9020.

9202. (a) Before circulating an initiative petition in any city, the proponents of the matter shall file with the elections official a notice of intention to do so, which shall be accompanied by the written text of the initiative and may be accompanied by a written statement not in excess of 500 words, setting forth the reasons for the proposed

petition. The notice shall be signed by at least one, but not more than three, proponents and shall be in substantially the following form:

Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of _____ for the purpose of _____. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

(b) Any person filing a notice of intent with the elections official shall pay a fee to be established by the legislative body not to exceed two hundred dollars ($200) to be refunded to the filer if, within one year of the date of filing the notice of intent, the elections official certifies the sufficiency of the petition.

9203. (a) Any person who is interested in any proposed measure shall file a copy of the proposed measure with the elections official with a request that a ballot title and summary be prepared. This request shall be accompanied by the address of the person proposing the measure. The elections official shall immediately transmit a copy of the proposed measure to the city attorney. Within 15 days after the proposed measure is filed, the city attorney shall provide and return to the city elections official a ballot title for and summary of the proposed measure. The ballot title may differ from any other title of the proposed measure and shall express in 500 words or less the purpose of the proposed measure. In providing the ballot title, the city attorney shall give a true and impartial statement of the purpose of the proposed measure in such language that the ballot title shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure.

(b) The elections official shall furnish a copy of the ballot title and summary to the person filing the proposed measure. The person proposing the measure shall, prior to its circulation, place upon each section of the petition, above the text of the proposed measure and across the top of each page of the petition on which signatures are to appear, in roman boldface type not smaller than 12-point, the ballot title prepared by the city attorney.

The heading of the proposed measure shall be in substantially the following form:

Initiative Measure to Be Submitted Directly to the Voters

The city attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the city attorney. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

9204. The proponent may seek a writ of mandate requiring the ballot title or summary prepared by the city attorney to be amended.

The court shall expedite hearing on the writ. A peremptory writ of mandate shall be issued only upon clear and convincing proof that the ballot title or summary is false, misleading, or inconsistent with the requirements of Section 9202.

9205. A notice of intention and the title and summary of the proposed measure shall be published or posted or both as follows:

(a) If there is a newspaper of general circulation, as described in Chapter 1 (commencing with Section 6000) of Division 7 of Title 1 of the Government Code, adjudicated as such, the notice, title, and summary shall be published therein at least once.

(b) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, the notice, title, and summary shall be published at least once, in a newspaper circulated within the city and adjudicated as being of general circulation within the county in which the city is located and the notice, title, and summary shall be posted in three (3) public places within the city, which public places shall be those utilized for the purpose of posting ordinances as required in Section 36933 of the Government Code.

(c) If the petition is to be circulated in a city in which there is no adjudicated newspaper of general circulation, and there is no newspaper of general circulation adjudicated as such within the county, circulated within the city, then the notice, title, and summary shall be posted in the manner described in subdivision (b).

9206. Within 10 days after the date of publication or posting, or both, of the notice of intention and title and summary, the proponents shall file a copy of the notice and title and summary as published or posted together with an affidavit made by a representative of the newspaper in which the notice was published or, if the notice was posted, by a voter of the city, certifying to the fact of publication or posting.

If the notice and title and summary are both published and posted pursuant to subdivision (b) of Section 9205, the proponents shall file affidavits as required by this section made by a representative of the newspaper in which the notice was published certifying to the fact that the notice was published and by a voter of the city certifying to the fact that the notice was posted.

These affidavits, together with a copy of the notice of intention and title and summary, shall be filed with the elections official of the legislative body of the city in his or her office during normal office hours as posted.

9207. The proponents may commence to circulate the petitions among the voters of the city for signatures by any registered voter of the city after publication or posting, or both, as required by Section 9205, of the title and summary prepared by the city attorney. Each section of the petition shall bear a copy of the notice of intention and the title and summary prepared by the city attorney.

9208. Signatures upon petitions and sections of petitions shall be secured, and the petition, together with all sections of the petition, shall be filed within 180 days from the date of receipt of the title and

summary, or after termination of any action for a writ of mandate pursuant to Section 9204, and, if applicable, after receipt of an amended title or summary or both, whichever occurs later. Petitions and sections thereof shall be filed in the office of the elections official during normal office hours as posted. If the petitions are not filed within the time permitted by this section, the petitions shall be void for all purposes.

9209. Each section shall have attached thereto the declaration of the person soliciting the signatures. This declaration shall be substantially in the same form as set forth in Section 9022, except that the declaration shall declare that the circulator is a voter of the city, and shall state the voter's residence address at the time of the execution of the declaration.

9210. The petition shall be filed by the proponents or by any person or persons authorized in writing by the proponents. All sections of the petition shall be filed at one time. Once filed, no petition section shall be amended except by order of a court of competent jurisdiction.

When the petition is presented for filing, the elections official shall do all of the following:

(a) Ascertain the number of registered voters of the city last reported by the county elections official to the Secretary of State pursuant to Section 2187 effective at the time the notice specified in Section 9202 was published.

(b) Determine the total number of signatures affixed to the petition. If, from this examination, the elections official determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, he or she shall accept the petition for filing. The petition shall be deemed as filed on that date. Any petition not accepted for filing shall be returned to the proponents.

9211. After the petition has been filed, as herein provided, the elections official shall examine the petition in the same manner as are county petitions in accordance with Sections 9114 and 9115, except that for the purposes of this section, references to the board of supervisors shall be treated as references to the legislative body of the city.

9212. (a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 9214, or Section 9215, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the city's general and specific plans, including the housing element, the consistency between planning and zoning, the limitations on city actions under Section 65008 of the Government Code, and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Any other matters the council requests to be in the report.

(b) The report shall be presented to the legislative body within the time prescribed by the legislative body but no later than 30 days after the elections official certifies to the legislative body the sufficiency of the petition.

9213. On or before April 1 of each odd-numbered year, the elections official of each legislative body shall file a report with the Secretary of State containing the following information:

(a) The number of municipal initiative petitions circulated during the preceding two calendar years which did not qualify for the ballot, and the number of these proposed initiatives for which reports were prepared pursuant to Section 9212.

(b) With respect to municipal initiative measures that qualified for the ballot in the preceding two calendar years, the number that were approved by the voters, and the number of these ballot measures for which reports were prepared pursuant to Section 9212.

(c) With respect to municipal initiative measures that qualified for the ballot in the preceding two calendar years, the number that were not approved by the voters, and the number of these ballot measures for which reports were prepared pursuant to Section 9212.

9214. If the initiative petition is signed by not less than 15 percent of the voters of the city according to the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187 effective at the time the notice specified in Section 9202 was published, or in a city with 1,000 or less registered voters the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall do either of the following:

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

(b) Immediately order a special election, to be held not less than 88 nor more than 103 days after the date of the order, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

(c) Order a report pursuant to Section 9212 at the regular meeting at which the ordinance is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

9215. If the initiative petition is signed by not less than 10 percent of the voters of the city, according to the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187, effective at the time the notice specified in Section 9202 was published, or, in a city with 1,000 or less registered voters, by the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters

at a special election, and is not passed without change by the legislative body, then the ordinance, without alteration, shall be submitted by the legislative body to the voters at the next regular municipal election occurring not less than 88 days after the order of the legislative body, or after the legislative body is presented with a report prepared pursuant to Section 9212.

9216. In cities having a mayor, or like officer, with the veto power, when the passage of an ordinance petitioned for by the voters is vetoed, the failure of the legislative body to pass the ordinance over the veto shall be deemed a refusal of the legislative body to pass the ordinance within the meaning of this article.

9217. If a majority of the voters voting on a proposed ordinance vote in its favor, the ordinance shall become a valid and binding ordinance of the city. The ordinance shall be considered as adopted upon the date that the vote is declared by the legislative body, and shall go into effect 10 days after that date. No ordinance that is either proposed by initiative petition and adopted by the vote of the legislative body of the city without submission to the voters, or adopted by the voters, shall be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance.

9218. Any number of proposed ordinances may be voted upon at the same election, but the same subject matter shall not be voted upon twice within any 12-month period at a special election under the provisions of this article.

9219. The persons filing an initiative petition pursuant to this article may file a written argument in favor of the ordinance, and the legislative body may submit an argument against the ordinance. Neither argument shall exceed 300 words in length, and both arguments shall be printed upon the same sheet of paper and mailed to each voter with the sample ballot for the election.

The following statement shall be printed on the front cover, or if none, on the heading of the first page, of the printed arguments:

"Arguments in support of or in opposition to the proposed laws are the opinions of the authors."

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure _____" or "Argument Against Measure _____," accordingly, the blank spaces being filled in only with the letter or number, if any, which designates the measure. At the discretion of the elections official, the word "Proposition" may be substituted for the word "Measure" in the titles. Words used in the title shall not be counted when determining the length of any argument.

9220. (a) If the legislative body submits an argument against the ordinance, it shall immediately send copies of the argument to the persons filing the initiative petition. The persons filing the initiative petition may prepare and submit a rebuttal argument not exceeding 250 words. The legislative body may prepare and submit a rebuttal to the argument in favor of the ordinance not exceeding 250 words.

The rebuttal arguments shall be filed with the elections official not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

(b) Subdivision (a) shall only apply if, not later than the day on which the legislative body calls an election, the legislative body, by a majority vote, approves its application; in which case, subdivision (a) shall apply at the next ensuing municipal election and at each municipal election thereafter, unless later repealed by the legislative body in accord with this subdivision.

9221. If the provisions of two or more ordinances adopted at the same election conflict, the ordinance receiving the highest number of affirmative votes shall control.

9222. The legislative body of the city may submit to the voters, without a petition therefor, a proposition for the repeal, amendment, or enactment of any ordinance, to be voted upon at any succeeding regular or special city election, and if the proposition submitted receives a majority of the votes cast on it at the election, the ordinance shall be repealed, amended, or enacted accordingly. A proposition may be submitted, or a special election may be called for the purpose of voting on a proposition, by ordinance or resolution.

9223. Whenever any ordinance or measure is required by this article to be submitted to the voters of a city at any election, the elections official of the legislative body shall cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voter upon request.

9224. The enacting clause of an ordinance submitted to the voters of a city shall be substantially in the following form:

"The people of the City of _____ do ordain as follows:".

9225. When a special election is to be called under this article, it shall be held not less than 88 nor more than 103 days after the date of the presentation of the proposed ordinance to the legislative body, and shall be held in accordance with this code. To avoid holding more than one special election within any six months, the date for holding the special election may be fixed later than 103 days, but at as early a date as practicable after the expiration of six months from the last special election. When it is legally possible to hold a special election under this chapter within six months prior to a regular municipal election, the legislative body may submit the proposed ordinance at the regular election instead of at a special election.

9226. This article does not apply to any statewide initiative measure.

Article 2. Referendum

9235. No ordinance shall become effective until 30 days from and after the date of its final passage, except:

(a) An ordinance calling or otherwise relating to an election.

(b) An ordinance for the immediate preservation of the public peace, health, or safety that contains a declaration of, and the facts constituting, its urgency and is passed by a four-fifths vote of the city council.

(c) Ordinances relating to street improvement proceedings.

(d) Other ordinances governed by particular provisions of state law prescribing the manner of their passage and adoption.

9236. (a) Notwithstanding Section 9235, ordinances authorizing the issuance of revenue bonds by a city as part of a joint powers entity pursuant to Section 6547 of the Government Code shall not take effect for 60 days.

(b) When the number of votes cast for all candidates for Governor at the last gubernatorial election within the boundaries of the city described in subdivision (a) exceeds 500,000, the ordinance is subject to referendum upon presentation of a petition bearing signatures of at least 5 percent of the entire vote cast within the boundaries of the city for all candidates for Governor at the last gubernatorial election. When the number of votes cast for all candidates for Governor at the last gubernatorial election within the boundaries of the city is less than 500,000, the ordinance is subject to referendum upon presentation of a petition bearing signatures of at least 10 percent of the entire vote cast within the boundaries of the city for all candidates for Governor at the last gubernatorial election.

(c) For the purpose of submitting the question to the voters pursuant to subdivision (b), the ballot wording shall approximate the following:

"Shall the _____ (city name),
as a member of the _____ (joint powers entity name),
authorize the issuance of revenue bonds by the joint powers entity in the amount of $_____ pursuant to ordinance number _____, dated _____, the bonds to be used for the following purposes and to be redeemed in the following manner: _____?"

9237. If a petition protesting the adoption of an ordinance and circulated by any qualified registered voter of the city, is submitted to the elections official of the legislative body of the city in his or her office during normal office hours, as posted, within 30 days of the adoption of the ordinance, and is signed by not less than 10 percent of the voters of the city according to the county elections official's last official report of registration to the Secretary of State, or, in a city with 1,000 or less registered voters, is signed by not less than 25 percent of the voters or 100 voters of the city whichever is the lesser, the effective date of the ordinance shall be suspended, and the legislative body shall reconsider the ordinance.

9238. (a) Across the top of each page of the referendum petition

there shall be printed the following:

"Referendum Against an Ordinance Passed by the City Council"

(b) Each section of the referendum petition shall contain (1) the identifying number or title, and (2) the text of the ordinance or the portion of the ordinance that is the subject of the referendum.

The petition sections shall be designed in the same form as specified in Section 9020.

(c) Each section shall have attached thereto the declaration of the person soliciting the signatures. This declaration shall be substantially in the same form as set forth in Section 9022, except that the declaration shall declare that the circulator is a voter of the city and shall state his or her residence address at the time of the execution of the declaration.

9239. Petitions shall be accepted for filing by the elections official and the determination of the number of signatures thereon shall be made by the elections official in accordance with Section 9210. Petitions shall be filed with the elections official of the legislative body of the city in his or her office during normal office hours, as posted.

9240. After the petition has been filed as herein provided, the elections official shall examine the petition and certify the results in the same manner as are county petitions in Sections 9114 and 9115 except that, for the purposes of this section, references to the board of supervisors shall be treated as references to the legislative body of the city.

9241. If the legislative body does not entirely repeal the ordinance against which the petition is filed, the legislative body shall submit the ordinance to the voters, either at the next regular municipal election occurring not less than 88 days after the order of the legislative body, or at a special election called for the purpose, not less than 88 days after the order of the legislative body. The ordinance shall not become effective until a majority of the voters voting on the ordinance vote in favor of it. If the legislative body repeals the ordinance or submits the ordinance to the voters, and a majority of the voters voting on the ordinance do not vote in favor of it, the ordinance shall not again be enacted by the legislative body for a period of one year after the date of its repeal by the legislative body or disapproval by the voters.

9242. Signatures upon petitions, and sections thereof, shall be secured, and the petition, together with all sections thereof, shall be filed, within 30 days from the date of the adoption of the ordinance to which it relates. Petitions and sections thereof shall be filed with the elections official of the legislative body of the city in his or her office during normal office hours as posted. Petitions which are not filed within the time permitted by this section shall be void for all purposes.

9243. Elections pursuant to this article shall be held in accordance

with Sections 9217 to 9225, inclusive.

9244. Whenever the legislative body of a city has voted in favor of the repeal of an ordinance protested against by the voters, as provided in this article, and the mayor, or like officer, has vetoed the repeal, the failure of the legislative body to pass the repeal over the veto shall be deemed a refusal to repeal the ordinance.

9245. If approval of an ordinance by the mayor or like officer is necessary, the date of approval shall be deemed the date of its final passage by the legislative body within the meaning of this article.

If an ordinance becomes law when the time for approval or veto has expired, and no action has been taken, the date of the expiration of that time shall be deemed the date of its final passage by the legislative body within the meaning of this article.

9246. Any duty imposed in this chapter upon the legislative body of a city with regard to calling a municipal election, or in connection with an election called pursuant to this chapter, is likewise imposed upon any officer having any duty to perform connected with the election, so far as may be necessary to carry out this chapter.

9247. Article 1 (commencing with Section 9200) and this article do not apply to cities having a charter adopted under Section 3 of Article XI of the California Constitution, and having in their charters any provision for the direct initiation of ordinances by the voters; nor to proceedings had for the improvement of streets in or rights-of-way owned by cities, the opening or closing of streets, the changing of grades or the doing of other work, the cost of which, or any portion of the cost which is to be borne by special assessments upon real property.

Article 3. City or City and County Charters

9255. (a) The following city or city and county charter proposals shall be submitted to the voters at either a special election called for that purpose, at any established municipal election date, or at any established election date pursuant to Section 1000, provided that there are at least 88 days before the election:

(1) A charter proposed by a charter commission, whether elected or appointed by a governing body. A charter commission may also submit a charter pursuant to Section 34455 of the Government Code.

(2) An amendment or repeal of a charter proposed by the governing body of a city or a city and county on its own motion.

(3) An amendment or repeal of a city charter proposed by a petition signed by 15 percent of the registered voters of the city.

(4) An amendment or repeal of a city and county charter proposed by a petition signed by 10 percent of the registered voters of the city and county.

(5) A recodification of the charter proposed by the governing body on its own motion, provided that the recodification does not, in any manner, substantially change the provisions of the charter.

(b) Charter proposals by the governing body and charter proposals by petition of the voters may be submitted at the same election.

(c) The total number of registered voters of the city or city and county shall be determined according to the county elections official's last official report of registration to the Secretary of State.

9256. The proponents of a measure proposing to amend a charter shall publish or post, or both, a notice of intent to circulate the petition in the same form and manner as prescribed in Sections 9202, 9203, 9204, and 9205. The proponents shall also file an affidavit prescribed in Section 9206 with the clerk of the legislative body of the city, and, with respect to the petition, shall be subject to Section 9207.

9257. The petition signed by registered voters of the city or city and county proposing an amendment to a charter shall set forth in full the text of the proposed amendment, in no less than 10-point type.

9258. The petition may be circulated in sections, but each section shall contain a correct copy of the text of the proposed amendment.

9259. Each signer of the petition shall sign it in the manner prescribed by Section 9020.

9260. The petition shall be in substantially the following form:

Petition for Submission to Voters of Proposed Amendment to the Charter of the City (or City and County) of _____

To the city council (or other legislative body) of the City (or City and County) of _____:

We, the undersigned, registered and qualified voters of the State of California, residents of the City (or City and County) of _____, pursuant to Section 3 of Article XI of the California Constitution and Chapter 2 (commencing with Section 34450) of Part 1 of Division 2 of Title 4 of the Government Code, present to the city council (or other legislative body) of the city (or city and county) this petition and request that the following proposed amendment to the charter of the city (or city and county) be submitted to the registered and qualified voters of the city (or city and county) for their adoption or rejection at an election on a date to be determined by the city council (or other legislative body).

The proposed charter amendment reads as follows:

First. (setting forth the text of the amendment) _____ (etc.)

Signature	Printed Name	Residence	Date

9261. Each section shall have attached thereto the affidavit of the person soliciting the signatures. This affidavit shall be substantially in the same form as set forth in Section 9022 and shall comply with Sections 104 and 9209.

9262. Each petition section shall consist of sheets of white paper, uniform in size, with dimensions no smaller than 8½ by 11 inches or greater than 8½ by 14 inches.

9263. The sheets comprising each petition section shall be fastened together securely and remain so during circulation and filing.

9264. A voter may withdraw his or her signature from a petition in the manner prescribed in Section 9602.

9265. The petition shall be filed with the elections official by the proponents, or by any person or persons authorized in writing by the proponents. All sections of the petition shall be filed at one time, and no petition section submitted subsequently shall be accepted by the elections official. The petition shall be filed not more than 200 days after the date on which the notice of intent to circulate was published or posted, or both.

9266. After the petition has been filed, the elections official shall examine the petition in the same manner as are county petitions in accordance with Sections 9114 and 9115, except that, for the purposes of this section, references in those sections to the board of supervisors shall be treated as references to the legislative body of the city or city and county. The expenses of signature verification shall be provided by the governing body receiving the petition from the elections official.

9267. Petitions that do not substantially conform to the form requirements of this article shall not be accepted for filing by the elections official.

9268. The conduct of election and publication requirements shall substantially conform with Part 1 (commencing with Section 10000) and Part 2 (commencing with Section 10100) of Division 10.

9269. Upon the completion of the canvass of votes, the governing body of a city or city and county shall pass a resolution reciting the fact of the election and such other matters as are enumerated in Section 10264. The elections official of the city or city and county shall then cause the adopted measures to be submitted to the Secretary of State pursuant to Sections 34459 and 34460 of the Government Code.

Article 4. Arguments Concerning City Measures

9280. Whenever any city measure qualifies for a place on the ballot, the governing body may direct the city elections official to transmit a copy of the measure to the city attorney, unless the organization or salaries of the office of the city attorney are affected. The city attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the

operation of the measure. If the measure affects the organization or salaries of the office of the city attorney, the governing board may direct the city elections official to prepare the impartial analysis. The analysis shall be printed preceding the arguments for and against the measure. The analysis shall not exceed 500 words in length.

In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point bold type, a legend substantially as follows:

"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

9281. If no other method is provided by general law, or, in the case of a chartered city, by the charter or by city ordinance, arguments for and against any city measure may be submitted to the qualified voters of the city pursuant to this article. If a method is otherwise provided by general law, or, in the case of a chartered city, by charter or city ordinance, for submitting arguments as to a particular kind of city measure, that method shall control.

9282. The legislative body, or any member or members of the legislative body authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument for or against any city measure. No argument shall exceed 300 words in length. The city elections official shall cause an argument for and an argument against the measure to be printed along with the following statement on the front cover, or if none, on the heading of the first page, of the printed arguments:

"Arguments in support or opposition of the proposed laws are the opinions of the authors."

The city elections official shall enclose a printed copy of both arguments with each sample ballot; provided, that only those arguments filed pursuant to this section shall be printed and enclosed with the sample ballot. The printed arguments are "official matter" within the meaning of Section 13303.

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure _____" or "Argument Against Measure _____," accordingly, the blank spaces being filled in only with the letter or number, if any, designating the measure. At the discretion of the elections official, the word "Proposition" may be substituted for the word "Measure" in such titles. Words used in the title shall not be counted when determining the length of any argument.

9283. A ballot argument shall not be accepted under this article unless accompanied by the name or names of the person or persons submitting it, or, if submitted on behalf of an organization, the name of the organization and the name of at least one of its principal officers.

No more than five signatures shall appear with any argument submitted under this article. In case any argument is signed by more than five persons, the signatures of the first five shall be printed.

9284. A ballot argument or, if applicable, a rebuttal argument that includes in its text the name or title of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of that person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, association, committee, labor organization, and any other organization or group of persons.

9285. (a) If any person submits an argument against a city measure, and an argument has been filed in favor of the city measure, the elections official shall immediately send copies of that argument to the persons filing the argument in favor of the city measure. The persons filing the argument in favor of the city measure may prepare and submit a rebuttal argument not exceeding 250 words. The elections official shall send copies of the argument in favor of the measure to the persons filing the argument against the city measure, who may prepare and submit a rebuttal to the argument in favor of the city measure not exceeding 250 words. The rebuttal arguments shall be filed with the elections official not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument it seeks to rebut.

(b) Subdivision (a) shall only apply if, not later than the day on which the legislative body calls an election, the legislative body, adopts its provisions by majority vote, in which case subdivision (a) shall apply at the next ensuing municipal election and at each municipal election thereafter, unless later repealed by the legislative body in accordance with the procedures of this subdivision.

9286. Based on the time reasonably necessary to prepare and print the arguments and sample ballots and to permit the 10-calendar-day public examination as provided in Article 6 (commencing with Section 9295) for the particular election, the city elections official shall fix and determine a reasonable date prior to the election after which no arguments for or against any city measure may be submitted for printing and distribution to the voters, as provided in this article. Arguments may be changed or withdrawn by their proponents until and including the date fixed by the city elections official.

9287. If more than one argument for or more than one argument against any city measure is submitted to the city elections official within the time prescribed, he or she shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the argument the city elections official shall give preference and priority, in the order

named, to the arguments of the following:

(a) The legislative body, or member or members of the legislative body authorized by that body.

(b) The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.

(c) Bona fide associations of citizens.

(d) Individual voters who are eligible to vote on the measure.

Article 5. Mailings

9290. Whenever the elections official is required to mail official matter, as provided in Sections 9219, 9220, 9223, 9280, 9281, 9282, and 9285, only one copy of each piece of official matter shall be mailed to a postal address where two or more registered voters have the same surname and the same postal address.

This section shall only apply if the legislative body of the city adopts this section and the election official conducting the election approves of the procedure.

Article 6. Public Examination

9295. Not less than 10 calendar days before the elections official submits the official election materials referred to in Sections 9219, 9220, 9223, 9280, 9281, 9282, and 9285 for printing, the elections official shall make a copy of the material available for public examination in the elections official's office. Any person may obtain a copy of the materials from the elections official for use outside of the election official's office. The elections official may charge a fee to any person obtaining a copy of the material. The fee shall not exceed the actual cost incurred by the elections official in providing the copy.

During the 10-calendar-day examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the elections official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted. A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The elections official shall be named as respondent, and the person or official who authored the material in question shall be named as real parties in interest. In the case of the elections official bringing the mandamus or injunctive action, the board of supervisors of the county shall be named as the respondent and the person or official who authored the material in question shall be named as the real party in interest.

CHAPTER. 4. DISTRICT ELECTIONS

Article 1. Initiative

9300. In addition to any other method provided by law, ordinances may be enacted by any district pursuant to this article, except that this article shall not apply to irrigation districts, to a district formed under a law that does not provide a procedure for elections, to a district formed under a law which does not provide for action by ordinance, to a district governed by an election procedure that permits voters, in electing the district's directors or trustees, to cast more than one vote per voter, or to a district in which the directors are empowered to cast more than one vote per director when acting on any matter.

9301. Any proposed ordinance may be submitted to the governing board of the district by an initiative petition filed with the district elections official. Signatures to these petitions shall be obtained in the same manner as set forth in Section 9020. Affidavits shall be attached to each petition section in the form and in the manner set forth in Section 9022.

9302. Before circulating an initiative petition in any district, the proponents of that measure shall publish a notice of intention. The notice shall be accompanied by a printed statement stating the reasons for the proposed petition. The printed statement shall not exceed 500 words. The notice shall be signed by at least one, but not more than five, proponents, and shall be in substantially the following form:

"Notice of Intention to Circulate Initiative Petition

Notice is hereby given of the intention of the persons whose names appear hereon of their intention to circulate the petition within the _____ district for the purpose of _____. A statement of the reasons for the proposed action as contemplated in the petition is as follows:"

9303. A notice of intention and statement as referred to in Section 9302 shall be published or posted, or both, as follows:

(a) If there is a newspaper of general circulation within the district, as described in Section 6000 of the Government Code, the notice and statement shall be published therein at least once.

(b) If the petition is to be circulated in a district in which there is no newspaper of general circulation, the notice and statement shall be published at least once in a newspaper of general circulation within the county in which the district is located, and the notice and statement shall be posted in three public places within the district.

9304. Within 10 days after the date of publication or posting, or both, of the notice of intention and statement, the proponents shall file a copy of the notice and statement as published or posted, or

both, together with an affidavit made by a representative of the newspaper in which the notice was published or, if the notice was posted, by a voter of the district certifying to the fact of publication or posting. The affidavit, together with a copy of the notice of intention and statement, shall be filed with the district elections official.

9305. After the publication or posting, or both, of the notice of intention and statement, the petition may be circulated among the voters of the district for signatures by any registered voter of the district. Each section of the petition shall bear a copy of the notice of intention and statement.

9306. Signatures upon petitions and sections thereof shall be secured, and the petition, together with all sections thereof, shall be filed within 180 days from the date of publication or posting, or both, of the notice of intention and statement. If the petitions are not filed within the time permitted by this section, the petition and its sections shall be void for all purposes.

9307. Each section of the petition shall have attached thereto the affidavit of the person soliciting the signatures. This affidavit shall be substantially in the same form as set forth in Section 9092, except that the affidavit shall declare that the circulator is a registered voter of the district.

9308. (a) Except as provided in Section 9309, within 30 days from the date of filing of the petition, excluding Saturdays, Sundays, and holidays, the district elections official shall examine the petition, and from the records of registration ascertain whether the petition is signed by the requisite number of voters. A certificate showing the results of this examination shall be attached to the petition.

(b) In determining the number of valid signatures, the district elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(c) The district elections official shall notify the proponents of the petition as to the sufficiency or insufficiency of the petition.

(d) If the petition is found insufficient, no further action shall be taken. However, the failure to secure sufficient signatures, shall not preclude the filing of a new petition on the same subject, at a later date.

(e) If the petition is found sufficient, the district elections official shall certify the results of the examination to the governing board of the district at the next regular meeting of the board.

9309. (a) Within 30 days from the date of filing of the petition, excluding Saturdays, Sundays, and holidays, if, from the examination of petitions pursuant to Section 9308, more than 500 signatures have been signed on the petition, the district elections official may use a random sampling technique for verification of signatures. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the elections official shall be

given an equal opportunity to be included in the sample. A random sampling shall include an examination of at least 500 or 3 percent of the signatures, whichever is greater.

(b) If the statistical sampling shows that the number of valid signatures is within 95 to 110 percent of the number of signatures of qualified voters needed to declare the petition sufficient, the district elections official shall examine and verify each signature filed.

(c) In determining from the records of registration, what number of valid signatures are signed on the petition, the district elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(d) The district elections official shall attach to the petition, a certificate showing the result of this examination, and shall notify the proponents of either the sufficiency or insufficiency of the petition.

(e) If the petition is found insufficient, no action shall be taken on the petition. However, the failure to secure sufficient signatures shall not preclude the filing later of an entirely new petition to the same effect.

(f) If the petition is found to be sufficient, the district elections official shall certify the results of the examination to the governing board of the district at the next regular meeting of the board.

9310. (a) If the initiative petition is signed by voters not less in number than 10 percent of the voters in the district, where the total number of registered voters is less than 500,000, or not less in number than 5 percent of the voters in the district, where the total number of registered voters is 500,000 or more, and the petition contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the district board shall do either of the following:

(1) Pass the ordinance, without alteration, either at the regular meeting at which it is presented, or within 10 days after it is presented.

(2) Immediately order that the ordinance be submitted to the voters, without alteration, at the next statewide election or at the next regular election date under Section 1000 whichever comes first, provided that the election occurs not less than 88 days after the order of the district board.

(b) Notwithstanding subdivision (a), nothing shall prohibit the board from calling a special election, to be held not less than 88 days nor more than 103 days after the date of the presentation of the proposed ordinance to the board. When it is legally possible to hold a special election under this chapter within six months prior to a regular election, the board may submit the proposed ordinance at the regular election instead of at a special election. Not more than one special election may be held pursuant to this article during any period of six months.

(c) The number of registered voters referred to in subdivision (a) shall be calculated as of the time of the last report of registration by the county elections official to the Secretary of State made prior to publication or posting of the notice of intention to circulate the initiative petition.

9311. If the initiative petition does not request a special election and is not passed without change by the legislative body, then the ordinance, without alteration, shall be submitted by the board to the voters at the next regular local election for the district or statewide election, whichever comes first, provided that the election occurs not less than 88 days after the order of the district board.

9312. Whenever any ordinance is required by this article to be submitted to the voters of a district at any election, the district elections official shall cause the ordinance to be printed. A copy of the ordinance shall be made available to any voter upon request.

The district elections official shall mail with the sample ballot to each voter the following notice printed in no less than 10-point type.

"If you desire a copy of the proposed ordinance, please call the district elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

9313. Except as provided in Section 9314, whenever any petition is submitted to the voters, the district elections official shall transmit a copy of the measure to the county counsel, or to the district attorney if there is no county counsel, of the county that contains the largest number of registered voters of the district. The county counsel or district attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The analysis shall be printed preceding the arguments for and against the measure. The analysis shall not exceed 500 words in length.

In the event the entire text of the measure is not printed on the ballot nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point bold type, a legend substantially as follows:

"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the district elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

9314. (a) Whenever any petition is submitted to the voters of a water district, the district elections official shall transmit a copy of the measure to the legal counsel for the water district, or to the county counsel if there is no legal counsel for the water district, of the county that contains the largest number of registered voters of the water district. Except as otherwise provided in subdivision (b), if there is a legal counsel for the water district, he or she shall prepare, subject to review and revision by the county counsel, an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The analysis shall be printed preceding the arguments for and against the

measure. The analysis shall not exceed 500 words in length.

In the event the entire text of the measure is not printed on the ballot nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point bold type, a legend substantially as follows:

"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the district elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

(b) If there is no legal counsel for the water district, or if the legal counsel for the water district and the county counsel so agree, the county counsel shall prepare the impartial analysis.

(c) As used in this section:

(1) "Legal counsel for the water district" means the attorney designated under the district's conflict of interest code as its legal officer pursuant to Section 87300 et seq. of the Government Code.

(2) "County counsel" means the district attorney if there is no county counsel.

(3) "Water district" means a water district as defined in Section 20200 of the Water Code.

9315. The persons filing an initiative petition pursuant to this article may file a written argument in favor of the ordinance. The district board may submit an argument against the ordinance. Neither argument shall exceed 300 words in length, and both arguments shall be printed and mailed to each voter with the sample ballot for the election.

The following statement shall be printed on the front cover, or if none, on the heading of the first page, of the printed arguments:

"Arguments in support of or in opposition to the proposed laws are the opinions of the authors."

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure _____" or "Argument Against Measure _____," accordingly, the blank spaces being filled in only with the letter or number, if any, designating the measure. At the discretion of the district elections official, the word "Proposition" may be substituted for the word "Measure" in the titles. Words used in the title shall not be counted when determining the length of any argument.

9316. Based on the time reasonably necessary to prepare and print the arguments and sample ballots, and to permit the 10-calendar-day public examination as provided in Article 4 (commencing with Section 9380) for the particular election, the district elections official charged with the duty of conducting the election shall fix and determine a reasonable date prior to the election for the submission to the district elections official of an argument in favor of and against the ordinance, and additional rebuttal arguments as provided in Section 9317. Arguments may be changed or withdrawn by their proponents until and including the date fixed by the district elections official.

9317. The persons filing the initiative petition may prepare and submit a rebuttal argument not exceeding 250 words. The district board may prepare and submit a rebuttal to the argument in favor of the ordinance not exceeding 250 words. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument it seeks to rebut.

9318. A ballot argument or a rebuttal argument which includes in its text the name or title of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of that person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, association, committee, labor organization, and any other organization or group of persons.

9319. Any number of proposed ordinances may be voted upon at the same election.

9320. If a majority of the voters voting on a proposed ordinance vote in its favor, the ordinance shall become a valid and binding ordinance of the district. The ordinance shall be considered as adopted upon the date the vote is declared by the district board, and shall go into effect 10 days after that date.

9321. If the provisions of two or more ordinances adopted at the same election conflict, the ordinance receiving the highest number of affirmative votes shall control.

9322. The enacting clause of an ordinance submitted to the voters of a district shall be substantially in the following form:

"The people of the _____ District do ordain as follows:"

9323. No ordinance proposed by initiative petition and adopted either by the district board without submission to the voters or adopted by the voters shall be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance. In all other respects, an ordinance proposed by initiative petition and adopted shall have the same force and effect as any ordinance adopted by the board.

Article 2. Referendum

9340. The voters of any district that is a local public entity as defined by Section 900.4 of the Government Code, and to which Section 9300 applies, shall have the right to petition for referendum on legislative acts of the district in the same manner and subject to the same rules as are set forth in Sections 9141, 9142, 9143, 9144, 9145, and 9146, except that all computations referred to in those sections and officers of the county mentioned in those sections shall be construed to refer to comparable computations and officers of the district.

9341. (a) Notwithstanding Section 9340, ordinances authorizing the issuance of revenue bonds by a school district, special district, or any other local agency as part of a joint powers entity pursuant to Section 6547 of the Government Code, shall not take effect for 60 days.

(b) When the number of votes cast for all candidates for Governor at the last gubernatorial election within the boundaries of the school district, special district, or any other local agency described in subdivision (a) exceeds 500,000, the ordinance is subject to referendum upon presentation of a petition bearing signatures of at least 5 percent of the entire vote cast within the boundaries of the school district, special district, or any other local agency for all candidates for Governor at the last gubernatorial election. When the number of votes cast for all candidates for Governor at the last gubernatorial election within the boundaries of the school district, special district, or any other local agency is less than 500,000, the ordinance is subject to referendum upon presentation of a petition bearing signatures of at least 10 percent of the entire vote cast within the boundaries of the school district, special district, or any other local agency for all candidates for Governor at the last gubernatorial election.

(c) For the purpose of submitting the question to the voters pursuant to subdivision (b), the ballot wording shall approximate the following:

"Shall the _____,
(school district, special district, or any other local agency name)
as a member of the _____,
(joint powers entity name)
authorize the issuance of revenue bonds by the joint powers entity in the amount of $_____ pursuant to ordinance number _____, dated _____, the bonds to be used for the following purposes and to be redeemed in the following manner: _____?"

9342. The governing board of any district to which Section 9340 applies may refer legislative questions to the voters of the district in the same manner as the board of supervisors may refer county questions pursuant to Section 9140.

Article 3. Mailings

9360. Whenever the elections official is required to mail official matter, as provided in Sections 9312, 9315, and 9317, only one copy of each such official matter shall be mailed to a postal address where two or more registered voters have the same surname and the same postal address.

This section shall only apply if the legislative body of the district adopts this section, and the elections official conducting the election approves of the procedure.

Article 4. Public Examination

9380. Not less than 10 calendar days before the elections official submits the official election materials referred to in Sections 9312, 9315, and 9317 for printing, he or she shall make a copy of the materials available for public examination in his or her office. Any person may obtain a copy of the materials from the elections official for use outside of the elections official's office. The elections official may charge a fee to any person obtaining a copy of the material. The fee shall not exceed the actual cost incurred by the elections official in providing the copy.

During the 10-calendar-day examination period provided by this section, any voter of the jurisdiction in which the election is being held may seek a writ of mandate or an injunction requiring any material to be amended or deleted. A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The elections official shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest.

CHAPTER 5. BOND ISSUES

9400. Notwithstanding any other provision of law, this chapter applies to all bond issues proposed by a county, city and county, city, district or other political subdivision or by any agency, department, or board thereof, the security for which constitutes a lien on the property within the jurisdiction and the proposal for which is required to be submitted to the voters for approval.

9401. (a) In connection with each bond issue specified in Section 9400, a statement shall be mailed to the voters with the sample ballot for the bond election. The statement required by this section shall include:

(1) The best estimate from official sources of the tax rate that would be required to be levied to fund that bond issue during the first fiscal year after the first sale of the bonds based on assessed valuations available at the time of the election or a projection based on experience within the same jurisdiction or other demonstrable factors.

(2) The best estimate from official sources of the tax rate that would be required to be levied to fund that bond issue during the first fiscal year after the last sale of the bonds if the bonds are proposed to be sold in series, and an estimate of the year in which that rate will apply, based on assessed valuations available at the time of the election or a projection based on experience within the same jurisdiction or other demonstrable factors.

(3) The best estimate from official sources of the highest tax rate that would be required to be levied to fund that bond issue, and an estimate of the year in which that rate will apply, based on assessed valuations available at the time of the election or a projection based on experience within the same jurisdiction or other demonstrable factors.

(b) In addition, the statement may contain any declaration of policy of the legislative or governing body of the applicable jurisdiction, proposing to utilize revenues other than ad valorem taxes for purposes of funding the bond issue, and the best estimate from official sources of these revenues and the reduction in the tax rate levied to fund the bond issue resulting from the substitution of revenue.

(c) The words "tax rate" as used in this chapter means tax rate per one hundred dollars ($100) of assessed valuation on all property to be taxed to fund any bond issue described in Section 5300.

9402. All official publications, and any ballot pamphlet prepared, sponsored or published by the jurisdiction which has proposed the bond issue or which is financed in whole or part by funds furnished by that jurisdiction, directed at or including a bond issue proposal shall contain a statement of the tax rate data specified in Section 5301.

9403. Failure to comply with this chapter shall not affect the validity of any bond issue following the sale and delivery of the bonds.

9404. The Legislature declares that the essence of compliance with this chapter is good faith in presenting to voters the most accurate available information for their use in effecting comparisons and exercising judgment in casting their ballots.

9405. Whenever the elections official is required to mail a statement, as provided in Section 9401, only one copy of the statement shall be mailed to a postal address where two or more registered voters have the same surname and the same postal address.

This section shall only apply if the legislative body adopts this section and the election official conducting the election approves of the procedure.

CHAPTER. 6. SCHOOL DISTRICT ELECTIONS

9500. Whenever a school measure qualifies for a place on the ballot, the county elections official shall transmit a copy of the measure to the county counsel or to the district attorney in any county that has no county counsel.

The county counsel or district attorney shall prepare an impartial analysis of the measure, showing the effect of the measure on the existing law and the operation of the measure. The analysis shall be printed preceding the arguments for and against the measure. The analysis shall not exceed 500 words in length.

9501. The governing board of the district or any member or members of the board authorized by the board, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of such voters and associations may file a written argument for or against any school measure. No argument shall exceed 300 words in length. No more than five signatures shall appear with any argument submitted under this section. If an argument is signed by more than five persons, the names of only the first five persons signing, determined by the order in which their signatures appear, shall be printed with the argument. The person conducting the election shall cause an argument for and an argument against the measure to be printed, and shall transmit the arguments to the voters with the card giving notice of the election.

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument in Favor of Measure _____" or "Argument Against Measure _____," accordingly, the blank spaces being filled in only with the letter or number, if any, designating the measure. At the discretion of the elections official, the word "Proposition" may be substituted for the word "Measure" in the titles. Words used in the title shall not be counted when determining the length of any measure.

9502. Based on the time reasonably necessary to prepare and print the arguments, and to permit the 10-calendar-day public examination as provided in Section 9509, the person conducting the election shall fix and determine a reasonable date prior to the election after which no arguments for or against any school measure may be submitted to him or her for printing and distribution to the voters. Notice of the date fixed shall be published pursuant to Section 6061 of the Government Code. Arguments may be changed until and including the date fixed by the person conducting the election.

9503. If more than one argument for or more than one argument against any school measure is submitted to the person conducting the election within the time prescribed, the person conducting the election shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. In selecting the arguments, the person conducting the election shall give preference and priority, in the order named, to the arguments of the following:

(a) The governing board of the district or member or members of the board authorized by the board.

(b) The individual voter, or bona fide associations of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.

(c) Bona fide associations of citizens.

(d) Individual voters who are eligible to vote on the measure.

9504. When the person conducting the election has selected the arguments for and against the measure which will be printed and

distributed to the voters, he or she shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor.

The authors may prepare and submit rebuttal arguments not exceeding 250 words.

The rebuttal arguments shall be filed with the elections official not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut and shall be titled "Rebuttal to Argument in Favor of Measure (or Proposition) _____" or "Rebuttal to Argument Against Measure (or Proposition) _____," the blank spaces being filled in only with the letter or number, if any, designating the measure. Words used in the title shall not be counted when determining the length of any rebuttal argument.

9505. A ballot argument or a rebuttal argument that includes in its text the name or title of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of that person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, association, committee, labor organization, and any other organization or group of persons.

9506. All arguments prepared pursuant to this chapter and any statement submitted pursuant to Section 9504 shall be verified in the same manner as a pleading in a civil action.

9507. Any bona fide association of citizens that files a written argument pursuant to this article shall include therewith its fictitious name and the names of its officers.

If the argument of a bona fide association of citizens is selected for printing and distribution to the voters, the fictitious name and the names of the officers of the association shall appear in connection with the printed argument.

9508. Whenever a proposition relating to the approval of district bonds and a proposition, which is conditioned by the State Allocation Board on the approval of the bond issue, relating to the acceptance and expenditure of state school building aid funds, are to be submitted to the voters of a district on the same ballot, both propositions may be combined in such a manner that the proposed obligations of the district are clearly expressed, and the voter may cast one "Yes" or "No" vote upon the combined proposition.

The combined proposition shall, as nearly as practicable, be worded in accordance with the statutory requirements for the wording of each component proposition.

9509. Not less than 10 calendar days before the elections official submits the official election materials referred to in Sections 9500, 9501, and 9504 for printing, he or she shall make a copy of the materials available for public examination in his or her office. Any person may obtain a copy of the materials from the elections official for use outside of the elections official's office. The elections official may charge a fee to any person obtaining a copy of the material. The fee shall not exceed the actual cost incurred by the elections official in providing the copy.

During the 10-calendar-day examination period provided by this section, any voter of the jurisdiction in which the election is being held may seek a writ of mandate or an injunction requiring any or all of the materials to be amended or deleted. A peremptory writ of mandate or an injunction shall be issued only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with this chapter, and that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law. The elections official shall be named as respondent and the person or official who authored the material in question shall be named as real parties in interest.

CHAPTER 7. GENERAL PROVISIONS

9600. All arguments concerning measures filed pursuant to this division shall be accompanied by the following form statement, to be signed by each proponent and by each author, if different, of the argument:

The undersigned proponent(s) or author(s) of the

_____
(primary/rebuttal)

argument _____
(in favor of/against)

ballot proposition _____
(name or number)

at the _____
(title of election)

election for the _____
(jurisdiction)

to be held on _____ hereby state
(date)

that this argument is true and correct to the best of _____ knowledge and belief.
(his/her/their)

Signed _____ Date _____

_____ _____

_____ _____

9601. Notwithstanding any other provisions of this code, whenever any ballot arguments for or against any measure submitted to the voters for approval are authorized, these arguments may be withdrawn by their proponents at any time prior to and including the final date fixed for filing arguments.

9602. Any voter who has signed any initiative or referendum petition, and who subsequently wishes his or her name withdrawn, may do so by filing a written request for the withdrawal with the appropriate elections official. This request shall be filed in the elections official's office prior to the date the petition is filed.

9603. (a) Each city, county, school district, community college district, county board of education, and special district may hold, at its discretion, an advisory election on any date on which that jurisdiction is currently permitted to hold a regular or special election for the purpose of allowing voters within the jurisdiction, or a portion thereof, to voice their opinions on substantive issues, or to indicate to the local legislative body approval or disapproval of the ballot proposal.

(b) An advisory vote will be indicated as a ballot heading, above the ballot proposal, and by only the following description: "Advisory Vote Only."

(c) As used in this section, "advisory vote" means an indication of general voter opinion regarding the ballot proposal. The results of the advisory vote will in no manner be controlling on the sponsoring legislative body.

(d) An advisory election may be held in territory outside of the jurisdiction of the local entity calling the advisory election if the ballot proposal affects the residents of the territory. The sponsoring legislative body shall determine the territory in which the advisory election shall be held. However, the conduct of an advisory election in territory outside of the jurisdiction of the local entity shall only be held if all of the following conditions are met:

(1) A regular election or special election is to be held in that territory.

(2) The advisory election can be consolidated with it.

(3) The board of supervisors of the county in which the outside territory is located approves the consolidation.

(e) An advisory election shall not be consolidated with an election if the ballot's capacity will be exceeded because of the addition of the advisory election.

9604. (a) Notwithstanding any other provision of law, any person may engage in good faith bargaining between competing interests to secure legislative approval of matters embraced in a state or local initiative or referendum measure, and the proponents may, as a result of these negotiations, withdraw the measure at any time before filing the petition with the appropriate elections official.

(b) Withdrawal of state initiative or referendum measures shall be effective upon receipt by the Secretary of State of a written notice

of withdrawal, signed by all proponents of the measure.

(c) Withdrawal of local initiative or referendum measures shall be effective upon receipt by the appropriate local elections official of a written notice of withdrawal, signed by all proponents of the measure.

9605. Notwithstanding any other provision of law, whenever a legislative body has ordered that a measure or proposal be submitted to the voters of any jurisdiction at a special election, the order of election shall not be amended or withdrawn after the 83rd day prior to the election.

The order of election shall be amended or withdrawn upon the filing of a resolution by the legislative body stating the specifics concerning the amendment or withdrawal. The resolution shall be filed with the election official not later than the 83rd day prior to the election.

9606. A county elections official who is required, pursuant to this division, to examine signatures on an initiative, referendum, recall, nomination, or other election petition, may employ temporary assistants, as required, to complete the necessary procedure. The costs for the temporary assistants shall be paid by the jurisdiction in which the election on the proposition is intended to be held.

9607. (a) No person shall include an appropriation for a particular project within the text of an initiative petition in exchange for a campaign contribution or a pledge for a campaign contribution, for purposes of qualifying the petition for the ballot.

(b) As used in this section and in Section 9002, "project" means the financing, acquisition, or improvement of land, the construction or reconstruction of structures, improvements, parking structures, and related facilities, including the repair, replacement, maintenance, and operation of the project, and any equipment necessary or convenient for the project.

(c) Upon a determination by any court that this section has been violated, and in the event that the initiative petition has been adopted by the voters, the appropriation for the particular project is void, and any moneys appropriated for the particular project shall revert to the fund from which the moneys were appropriated.

DIVISION 10. LOCAL, SPECIAL, VACANCY, AND CONSOLIDATED ELECTIONS

PART 1. GENERAL PROVISIONS

CHAPTER 1. VOTERS AND PROCEDURE

10000. Every person is entitled to vote at a local, special, or consolidated election who is registered in any one of the precincts which compose the local, special, or consolidated election precincts, in accordance with this code.

10001. Except as otherwise specifically provided by law, all statewide special elections shall be called, conducted, and canvassed as provided by this code for the calling, conducting, and canvassing of general elections.

10002. The governing body of any city or district may by resolution request the board of supervisors of the county to permit the county elections official to render specified services to the city or district relating to the conduct of an election. Subject to approval of the board of supervisors, these services shall be performed by the county elections official.

The resolution of the governing body of the city or district shall specify the services requested.

Any city that requests the board of supervisors to permit the elections official to prepare the city's election materials shall, if the board of supervisors agrees to provide such services, supply the county elections official with a list of its precincts, or consolidated precincts, as applicable, no later than 61 days before the election.

Unless other arrangements satisfactory to the county have been made, the city or district shall reimburse the county in full for the services performed upon presentation of a bill to the city or district.

10003. A county may by ordinance or resolution limit campaign contributions in county elections.

10004. If the governing body of any special district fails to call or to take any other steps necessary to the holding of the regular district election at which any member or members of the governing body of the district are to be selected, the board of supervisors of the county in which the district is located, upon being notified of this fact by any voter in the district, may call a special election within the district for the selection of the governing board member or members involved. The election shall be held not later than 90 days after it is called by the board of supervisors, and shall be conducted in the same manner as the regular district election. The costs of the special election shall be borne by the district for which the election is held.

PART 2. MUNICIPAL ELECTIONS

CHAPTER 1. GENERAL PROVISIONS

10100. Whenever the county elections official is required to examine the signatures upon any nomination paper or petition of any candidate for a municipal office, he or she may employ necessary help for the examination. The cost shall be paid by the city.

10101. This part shall apply to all municipal elections, except where otherwise provided for in the Constitution of the state, or in a charter duly adopted or amended pursuant to the Constitution of this state.

10102. Section 13107, relating to ballot designations, shall apply to municipal elections, whether held in a general law or chartered city.

10103. Part 3 (commencing with Section 8600) of Division 8 and Chapter 7 (commencing with Section 15350) of Division 15, relating to write-in votes, shall apply to municipal elections held in general law cities.

CHAPTER 2. REGULATIONS GOVERNING ELECTIONS IN CITIES

Article 1. General Provisions

10200. This chapter shall be liberally construed to promote its objects, and no error, omission or irregularity shall invalidate an election if there has been a substantial compliance with this chapter.

10201. A proposition may be submitted at a regular election, or a special election may be called, by ordinance or resolution, for the purpose of voting on a proposition.

10202. A city may, by ordinance or resolution, limit campaign contributions in municipal elections.

Article 2. Nomination of Candidates

10220. Candidates may be nominated for any of the elective offices of the city in the following manner:

Not earlier than the 113th day nor later than the 88th day before a municipal election during normal office hours, as posted, the voters may nominate candidates for election by signing a nomination paper. Each candidate shall be proposed by not less than 20 nor more than 30 voters in a city of 1,000 registered voters or more, and not less than five nor more than 10 voters in a city of less than 1,000 registered voters, but only one candidate may be named in any one nomination paper. No voter may sign more than one nomination paper for the same office, and in the event the voter does so, that voter's signature

shall count only on the first nomination paper filed which contains the voter's signature. Nomination papers subsequently filed and containing that voter's signature shall be considered as though that signature does not appear thereon. Each seat on the governing body is a separate office. Any person registered to vote at the election may circulate a nomination paper. Where there are full terms and short terms to be filled, the term shall be specified in the nomination paper.

10221. The signatures to each nomination paper shall be appended on the same sheet of paper, and each signer shall add his or her place of residence, giving the street and number, if any, or another designation of his or her place of residence so as to enable its location to be readily ascertained.

10222. Every nomination paper shall have annexed an affidavit of the person who circulated it, to the effect that he or she saw written all the signatures appended thereto, and knows that they are the signatures of the persons whose names they purport to be.

10223. Each nomination paper shall be accompanied by a verified statement of the candidate that he or she will accept the nomination, and will also accept the office in the event of his election. The statement shall contain a blank space wherein the candidate shall be required to fill in his or her name in the manner in which he or she wishes the same to appear on the ballot and also the designation which he or she wishes to have under his or her name on the ballot, which designation shall conform to one of the designations permitted under this code relating to the forms of ballots generally.

10224. All nomination papers shall be filed with the city elections official during regular business hours as posted, not later than the 88th day before the election. Until that time, but not after, a candidate may withdraw his or her nomination paper after it is filed with the elections official as provided in this section.

10225. (a) Notwithstanding Sections 10220 and 10224, if nomination papers for an incumbent officer of the city are not filed by on the 88th day before the election, during normal business hours, as posted, the voters shall have until the 83rd day before the election during normal business hours, as posted, to nominate candidates other than the person who was the incumbent on the 88th day, for that incumbent's elective office.

(b) This section is not applicable where there is no incumbent eligible to be elected. If this section is applicable, notwithstanding Section 10224, a candidate may withdraw his or her nomination paper until the 83rd day before the election during normal business hours, as posted.

10226. The nomination papers and affidavits shall be substantially in the following form:

"NOMINATION PAPER

We, the undersigned voters of the _____ of _____ hereby nominate _____ for the office of _____ of the city:

Name	Residence
_____	_____
_____	_____
_____	_____

AFFIDAVIT OF THE CIRCULATOR

State of California
County of _____ } ss.

I, _____, solemnly swear (or affirm) that the signatures on this nomination paper were obtained between _____, 19__, and _____, 19__; that I circulated this petition and I saw the signatures on this section of the nomination papers being written; and that, to the best of my information and belief, each signature is the genuine signature of the person whose name it purports to be.

My residence address is _____.

_____
(Signature)

Subscribed and sworn to before me the _____ day of _____, 19__.

(SEAL)

_____
Notary Public in and for the County of _____, State of California

AFFIDAVIT OF THE NOMINEE

State of California
County of _____ } ss.

_____ being duly sworn, says that he or she is the above-named nominee for the office of _____, that he or she will accept the office in the event of his or her election, that he or she desires his or her name to appear on the ballot as follows:

_____
(Print name above),

and that he or she desires the following designation to appear on the ballot under his or her name:

_____
(Print desired designation above.)

Subscribed and sworn to before me the _____ day of _____, 19__.

(SEAL) Notary Public in and for the County of _____, State of California"

10227. All forms required for nomination and election to all municipal offices shall be furnished only by the city elections official during regular business hours. At the time of issuance of those forms the city elections official shall type in the forms the name of the candidate and the office for which he is a candidate, shall imprint a stamp which reads "Official Filing Form," and shall affix his or her signature. At the time nomination papers are issued to a candidate, the city elections official shall imprint the date. The forms shall be distributed without charge to all candidates applying for them.

10228. A filing fee proportionate to the costs of processing a candidate's nomination papers as determined by the city council and set by ordinance, but not exceeding twenty-five dollars ($25), may be imposed, to be paid upon the filing of the nomination papers.

10229. (a) If, by 5 p.m. on the 88th day prior to the day fixed for a regularly scheduled municipal election or the 83rd day if an incumbent fails to file pursuant to Section 10225, (i) no one or only one person has been nominated for any office which is elected on a citywide basis, or (ii) no one or only one person is nominated to be elected from or by a legislative district, or (iii) in the case of any office or offices to be elected at large, the number of persons who have been nominated for those offices does not exceed the number to be filled at that election; or, if, by the 88th day, during normal business hours, as posted, before a municipal election to fill any vacancy in office, no one, or only one person has been nominated for any elective office to be filled at that election, and the election is subject to Section 36512 of the Government Code, the city elections official shall submit a certificate of these facts to the governing body of the city and inform the governing body of the city that it may, at a regular or special meeting held before the municipal election, adopt one of the following courses of action:

(1) Appoint to the office the person who has been nominated.

(2) Appoint to the office any eligible elector if no one has been nominated.

(3) Hold the election, if either no one, or only one person has been nominated. The city elections official shall publish a notice of the facts described in this section and the courses of action available under this subdivision. Publication shall be made pursuant to Section 6061 of the Government Code in any newspaper of general circulation as designated by the city elections official.

After the fifth day following the date of posting or publication, the governing body of the city may make the appointment or direct an election to be held in the affected territory. The person appointed, if any, shall qualify and take office and serve exactly as if elected at

a municipal election for the office.

Notwithstanding Section 10403, if, by the 75th day before the municipal election, no person has been appointed to office pursuant to paragraph (1) or (2), the election shall be held.

(b) Subdivision (a) shall not apply if, at the regularly scheduled municipal election, more than one person has been nominated to another city office to be elected on a citywide basis or, a city measure has qualified and is to be submitted to the voters at that municipal election.

(c) Notwithstanding Chapter 1 (commencing with Section 8600) of Part 3 of Division 8, or any other provision of the law to the contrary, if the governing body of a city makes an appointment pursuant to subdivision (a), the elections official shall not accept for filing any statement of write-in candidacy that is submitted after the appointment is made.

(d) Nothing in this section shall be construed to prevent a city from enacting an ordinance pursuant to Section 36512.1 of the Government Code, requiring that a special election be held, or from enacting an ordinance pursuant to Section 36512.2 of the Government Code, providing that a person appointed to fill a vacancy on the city council shall hold office only until the date of the special election, or both. Any ordinance or ordinances may allow for appointment consistent with subdivision (a) without requiring or providing for a special election.

In the event that an appointment to office is made in a particular legislative district pursuant to subdivision (a), that appointment shall not affect the conduct of the municipal election in other legislative districts of the city.

Article 3. Conduct of Elections

10240. The city elections official shall have the necessary ballots printed and shall procure and furnish to the election officers the necessary supplies and equipment as specified in Sections 14105 and 14110. The elections official shall see that they are properly distributed to each precinct prior to the opening of the polls on the day of election.

10241. Before opening the polls, the election officers shall sign a declaration to discharge faithfully the duties of an election officer, before the inspector or before any other of themselves.

10242. The polls shall be open on the day of election between the hours that the governing body determines, but not less than eight consecutive hours. The hours of opening and closing the polls shall be specified in the notice of election, or shall otherwise be the same as provided for general elections. Before the precinct board receives any ballots, it shall cause it to be proclaimed aloud at the place of election that the polls are open.

10243. A majority of the members of any precinct board shall be present at the polling place at all times while the polling place is

open.

Article 4. Canvass of Ballots and Returns

10260. The votes shall be counted, the result of the votes cast shall be posted, the supplies and records of the election shall be returned to the city elections official and shall be disposed of by him or her in accordance with the provisions of this code governing elections generally, so far as they may be applicable.

10261. The city elections official, or a canvassing board appointed by him or her, shall count the votes cast by absent voters. The city elections official or board shall commence this count as soon as the polls close on the day of election, and the count shall continue, for not less than six hours each day providing ballots remain to be counted, until all absent voter ballots have been received within the time provided by law. The result of the absent vote count shall be included with the canvass of returns from the precincts.

The canvassing board, if any, shall be appointed, and the absent vote count shall be conducted in the manner prescribed by Chapter 1 (commencing with Section 15000) of Division 15, insofar as that chapter is not inconsistent with this section.

10262. The governing body of the city shall meet at their usual place of meeting on the first Tuesday after the election to canvass the returns and to install the newly elected officers. The body shall declare elected the persons having the highest number of votes given for each office. Upon the completion of the canvass and before installing the new officers, the body shall pass a resolution reciting the fact of the election and such other matters as are enumerated in Section 10264.

10263. The governing body may, by resolution duly adopted prior to the date of election, order the canvass to be made by the elections official prior to the first Tuesday after the election. Sections 15302 and 15303 shall govern the conduct of the canvass. Upon completion of the canvass, the elections official shall certify the results to the governing body who shall on the first Tuesday after the election comply with the other provisions of Section 10262.

10264. As soon as the result of the election is declared, the elections official of the governing body shall enter on its records a statement of the result.

The statement shall show:

(a) The whole number of votes cast in the city.

(b) The names of the persons voted for.

(c) The measures voted upon.

(d) For what office each person was voted for.

(e) The number of votes given at each precinct to each person and for and against each measure.

(f) The number of votes given in the city to each person and for and against each measure.

10265. The elections official shall immediately sign and deliver to

each person elected a certificate of election. He or she shall also administer to each person elected the oath of office prescribed in the California Constitution.

10266. Recount of votes in municipal elections shall be governed by Article 1 (commencing with Section 15600) of Chapter 12 of Division 15.

CHAPTER 3. EMERGENCY ELECTIONS IN CITIES

10300. The voters of a city may present a petition to the Governor for the appointment of three commissioners of election pursuant to this chapter if:

(a) The city has failed to elect officers in accordance with its charter, and there are no officers to carry on the city government, or the city has failed to call an election of officers.

(b) The city has attempted to adopt a freeholders charter under the State Constitution, and has failed to legally elect officers, and the freeholders charter is held to be invalid.

10301. The petition to the Governor shall set forth:

(a) The name of the city, with the date and manner of organization.

(b) The date of the last election for officers; whether they are performing their duties, and if not, how long since they have ceased to do so.

(c) The provision of the charter relating to the qualifications of voters.

(d) That each person signing the petition possesses the qualifications provided for voters by the charter.

(e) That each of the signers of the petition is a householder and freeholder in the city.

10302. The petition shall be signed by not less than 75 persons in the city, each of whom possesses all the qualifications mentioned in the body of the petition. The petition shall be verified by at least two of the signers, that, of their own knowledge, the petition is true, and that all the signers are qualified.

10303. Upon the presentation of the petition to the Governor, he or she shall either act upon it or require additional evidence of the matters set forth in the petition. Upon being satisfied of the truth of the matters set forth in the petition, the Governor shall appoint three persons as commissioners of election for that city. The commission shall be known as the board of election commissioners for (here give name of the city).

10304. The Governor shall issue a commission to the commissioners, and the issuance of the commission shall be conclusive evidence of the regularity of all the proceedings to and including the appointment of the commissioners. Within 10 days after their appointment, the commissioners shall take the constitutional oath of office before some officer authorized to administer oaths. The oath shall be indorsed upon the commission,

and a copy filed in the office of the Secretary of State. The commission shall organize by the election of a president and secretary from their own members. The commission shall keep minutes of all its proceedings, which minutes shall be signed at the close of each meeting by the president and secretary.

10305. The commissioners may, by an order entered in their minutes, call an election for the officers required by the charter of the city, to be elected only by the voters in the city. The order shall specify the names of the offices to be filled and the date of the election. When any office is to be filled by an election in any ward or subdivision of the city, the order shall so state.

10306. Prior to the election, the commission shall appoint precinct boards and fix the places of holding the election, as required in the city charter. The commission shall cause notice of the election to be published in one or more newspapers published in the city, or if none is published therein, then by posting notices for at least 20 days before election. The election shall be conducted as required by the city charter for the election of officers, except that it shall not be necessary to use printed registers. If a voter is challenged on the ground that his or her name does not appear on the register of the county, it shall be sufficient for him or her to state, under oath, that he or she believes his or her name is upon the register, and if no other evidence is offered, the precinct board shall accept that statement as true.

10307. Except that the returns shall be returned and delivered to the commission, the precinct boards shall make return of the election as required in the charter of all officers voted for at the election, without reference to whether they were voted for in the whole or only a ward or subdivision of the city. A member of a precinct board shall not issue a certificate of election.

10308. Within five days after the election, the commissioners shall canvass the returns and declare which persons were elected. The commission shall issue certificates of election to the persons so declared to be elected. The certificates shall be signed by all the commissioners, and shall be conclusive evidence of the regularity of all the proceedings taken in the election and by the commission, except as against any suit or proceeding to oust from office any person holding a certificate.

10309. Within 10 days after issuance of the certificates of election, the officers shall qualify and enter upon the discharge of their duties, in accordance with the charter. If any person chosen at the election fails to take the oath of office and enter upon the discharge of his or her duties within the time above specified, the office to which he or she shall have been elected shall be deemed vacant.

10310. At the first meeting of the governing body of the city after the election, the commissioners shall deliver to the governing body all books and papers in their possession, relating to their office of election commissioners. The governing body shall cause them to be filed by their elections official, and shall cause the commission issued

by the Governor to the commissioners, the minutes of the commissioners, and notice of the election to be entered in the book of minutes of the governing body. These entries shall thereupon be evidence of all the matters therein stated, and as conclusive as the originals.

10311. Whenever the officers elected at the election, and the officers authorized by the charter to be elected or appointed by the governing body or executive department of the city, have qualified and entered upon the discharge of their duties, the city shall be as fully organized and in operation as if the election had been held at the time and in the manner required by the charter.

10312. Whenever the government of the city is in full operation, the governing body shall enter a resolution in its minutes declaring that fact. The resolution shall be conclusive evidence of that fact, except as against a direct action or proceeding to set aside or annul the government.

PART 3. CONSOLIDATION OF ELECTIONS

10400. Whenever two or more elections, including bond elections, of any legislative or congressional district, public district, city, county or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, they may be consolidated pursuant to this chapter upon the order of the governing body or bodies or officer or officers calling the elections.

The elections, whether held under a freeholder charter or under any state law, or both, may be consolidated, and different elections called by the same governing body may be consolidated.

In each year when electors of President and Vice President of the United States are to be chosen, the presidential primary shall be consolidated with the direct primary, and no order is necessary.

10401. Where one of the elections to be consolidated is a statewide election, the board of supervisors of the county in which the consolidation is to be effected may order the consolidation.

10402. When local elections are to be consolidated, and no specific procedure is specified for their consolidation, the procedure set forth in Section 10403 shall govern the consolidation, except that the governing body of the jurisdiction that receives a request for the consolidation, or an officer otherwise authorized by law, may order the consolidation.

10403. Whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city, or other political subdivision shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board

requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. The question or proposition to appear on the ballot shall conform to this code governing the wording of propositions submitted to the voters at a statewide election. The resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election. The names of the candidates to appear upon the ballot where district, city, or other political subdivision offices are to be filled shall be filed with the county elections official no later than 81 days prior to the election.

10404. (a) This section applies only to special districts electing members of the governing body in November of odd-numbered years. As used in this section, "special district" means an agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries, except a city, county, city and county, school or community college district, or special assessment district.

(b) Notwithstanding any other provision of law, a governing body of a special district may, by resolution, require that its elections of governing body members be held on the same day as the statewide general election.

(1) The resolution setting the election shall also include dates that are consistent with the primary or general election with respect to nominations, notices, canvass of votes, certification of election, and all other procedural requirements of the Elections Code pertaining to the primary or general election.

(2) The resolution shall be submitted to the board of supervisors no later than 240 days prior to the date of the currently scheduled district election.

(c) The board of supervisors shall notify all districts located in the county of the receipt of the resolution to consolidate and shall request input from each district on the effect of consolidation.

(d) The elections official shall prepare and transmit to the board of supervisors an impact analysis of the proposed consolidation.

(e) The board of supervisors, within 60 days from the date of submission, shall approve the resolution unless it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled. Prior to the adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors shall each obtain from the elections official a report on the cost-effectiveness of the proposed action.

(f) Within 30 days after the approval of the resolution, the elections official shall notify all registered voters of the districts affected by the consolidation of the approval of the resolution by the board of supervisors. The notice shall be delivered by mail and at the expense of the district.

(g) Public notices of the proceedings in which the resolution is to be considered for adoption shall be made pursuant to Section 25151

of the Government Code.

(h) If a special district is located in more than one county, the special district may not consolidate an election if any county in which the special district is located denies the request for consolidation.

(i) If, pursuant to subdivision (b), a special district election is held on the same day as the statewide general election, those governing body members whose terms of office would have, prior to the adoption of the resolution, expired prior to that election shall, instead, continue in their offices until their successors are elected and qualified, but in no event shall the term be extended beyond December 31 of the year following the year in which the request for consolidation is approved by the board of supervisors.

(j) If a board of supervisors approves the resolution pursuant to subdivision (e), the special district election shall be conducted on the date specified by the board of supervisors, in accordance with subdivision (a), unless the approval is later rescinded by the board of supervisors.

(k) If the date of a special district election is changed pursuant to this section, at least one election shall be held before the resolution, as approved by the board of supervisors, may be subsequently repealed or amended.

10405. Notwithstanding any other provision of law, the Registrar-Recorder of the County of Los Angeles and the Registrar of Voters of Orange County may, pursuant to agreement between those counties, perform, either on behalf of the other, any and all duties relating to the conducting of the election, the counting of votes, and any other election procedures to the extent that those duties are for the conduct of an election of governing board members for any school district whose territory lies within both the County of Los Angeles and Orange County, pursuant to the consolidation of that election with a primary, municipal, or general election under Section 5000.5 of the Education Code.

10406. Notwithstanding any other provision of law, if a statewide special election is called less than 88 days prior to the date of that election, a district, city, or other political subdivision may call for a special local election for the submission of any question, proposition, or office to be filled, to be consolidated with the statewide special election if the call is issued within four days from the date of issuance of the Governor's proclamation or the effective date of a statute calling for a statewide special election.

10407. (a) Notwithstanding any other provision of law, whenever other elections are consolidated with a regularly scheduled election, the period for the filing of nomination documents by candidates in elections consolidated with the regularly scheduled election shall commence on the 113th day prior to the election. The nomination documents shall be filed not later than 5 p.m. on the 88th day prior to the regularly scheduled election in the office of the appropriate officer, during regular office hours.

(b) Notwithstanding subdivision (a), if nomination documents for

an incumbent officer of a political subdivision are not filed by 5 p.m. on the 88th day before the election, any person other than the person who was the incumbent on the 88th day shall have until 5 p.m. on the 83rd day before the election to file nomination documents for the elective office. This section is not applicable where there is no incumbent eligible to be elected.

10408. When the county precinct boundaries at a consolidated election called by the board of supervisors of the county in which the city, district or other political subdivision is located do not coincide with the boundaries of the city, district or other political subdivision, the board of supervisors may by order, and for the purpose of the election only, reprecinct the territory in which the boundaries do not coincide, at any time prior to 30 days before the election.

10409. When the boundaries of the territory within which an election is to be held, or the boundaries of the precincts established therefor, do not fully coincide with the boundaries of the territory within which some other election is to be held, or the boundaries of the precincts established for the other election, the elections may be consolidated as to all precincts which are the same for both elections. The elections may also be consolidated as to those precincts where a single precinct established for one election lies entirely within a single precinct established for the other election. Separate ballots shall be provided for those voters who reside outside the territory within which one of the elections is called.

10410. Within the territory affected by the order of consolidation, the election precincts, polling places and voting booths shall, in every case, be the same, and there shall be only one set of election officers in each of the precincts. When the returns of elections consolidated pursuant to this part are required to be canvassed by different canvassing boards, the elections shall be conducted separately in the same manner as if they had not been consolidated, except as provided in this part.

10411. In case of the consolidation of any election called by the legislative body of a city, district or other political subdivision with an election held in the county or counties in which the city, district or other political subdivision is situated, the governing body of the city, district or other political subdivision may authorize the board of supervisors to canvass the returns of the election. If this authority is given:

(a) The election shall be held in all respects as if there were only one election.

(b) Only one form of ballot shall be used.

(c) The returns of the election need not be canvassed by the legislative body of the authorizing city, district or other political subdivision.

If such authority is given to the board of supervisors, the canvass shall be made in accordance with Article 2 (commencing with Section 15050) of Chapter 1 of Division 15.

10412. In the case of the consolidation of any election called by

the governing body of a city, district or other political subdivision with an election held in another city, district or other political subdivision, the governing body of one city, district or political subdivision may authorize the governing body of the other city, district or political subdivision to canvass the returns of the election. If this authority is given:

(a) The elections shall be held in all respects as if there were only one election.

(b) Only one form of ballot shall be used.

(c) The returns of the election need not be canvassed by the governing body of the authorizing city, district, or other political subdivision.

If that authority is given, the canvass may be made by any body or official authorized by law to canvass the returns of the election of such other city, district or political subdivision.

10413. When the returns of any elections consolidated pursuant to this part are required to be canvassed by the same body, the elections shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

10414. Elections may be consolidated and conducted pursuant to this part notwithstanding the fact that the provisions of this code relating to absent voters may apply to less than all of the elections consolidated. Whenever only one form of ballot is used at a consolidated election the ballots cast by absent voters shall be counted only in connection with elections to which absent voter privileges have been extended by law.

10415. Whenever the period of time within which absent voters' ballots must be received by the elections official in order to be counted, as provided for any election by this code or any other law of this state, is different from that period of time provided for another election, and the elections are consolidated and only one form of ballot used for both elections, all absent voters' ballots issued for the consolidated election may be counted for both elections if received by the elections official within whichever period of time that is the longer.

10416. Except as otherwise provided in this part, when elections are consolidated, the governing body ordering consolidation may, in the territory affected thereby, provide for:

(a) The appointment of precinct boards.

(b) The formation of precincts for such elections.

(c) The expenses of the election.

10417. Where under any law of the state the precincts, polling places or names of members of precinct boards are required to be described or otherwise set forth in the ordinance, resolution, order, notice or other document calling, giving notice of or otherwise pertaining to any election, and the election is consolidated, in whole or in part, with another election, the ordinance, resolution, order, notice or other document need not describe or set forth the precincts, polling places and the names of precinct board members

pertaining to the territory affected by the consolidation but may instead state that these precincts, polling places, and precinct board members shall be the same as those provided for the other election within the territory affected by the consolidation, and in that event, the ordinance, resolution, order, notice, or other document shall refer to some ordinance, order, resolution, or notice calling, providing for or giving notice of the other election and which sets forth these precincts, polling places, and the names of precinct board members. This reference may be made by giving the number and title or date of adoption of the ordinance, resolution, or order, or the date or proposed date of any publication of the notice and the name of the newspaper in which the notice has been or will be published, or by any other definite description. Notwithstanding the provision of any other provision of law, this reference need not be made in the case of an election consolidated with a statewide election.

10418. Whenever an election is to be held on the same day as a statewide election, including a statewide special election, or an election held pursuant to Section 1302 or 1303, the election may be consolidated with the statewide election. If consolidated, the consolidated election shall be held and conducted, election officers appointed, voting precincts designated, candidates nominated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, results declared, certificates of election issued, and all other proceedings incidental to and connected with the election shall be regulated and done in accordance with the provisions of law regulating the statewide or regularly scheduled election.

The precincts used at the consolidated election shall be those used for the statewide or regularly scheduled election and, where necessary, the county elections official may adjust precinct lines to coincide with the boundaries of the particular jurisdiction.

PART 4. UNIFORM DISTRICT ELECTION LAW

10500. (a) This part may be cited as the Uniform District Election Law.

(b) As used in this part, the following definitions apply:

(1) "Affected county" means a county in which any land of the district or agency is situated.

(2) "County clerk" means the registrar of voters or, if there is none, the county clerk of an affected county.

(3) "Director" means a member of the governing body.

(4) "District" or "agency" means any district or agency of the type designated by and formed pursuant to the provisions of any principal act which incorporates this part.

(5) "Elective office" means any office which may, under the principal act of the district or agency, be filled by way of an election.

(6) "Elective officer" means "elective officer" as defined by the principal act of each district or agency or if not defined, any officer

of a district or agency holding an office which can be filled by election.

(7) "General district election" means an election held pursuant to the provisions of this part.

(8) "Governing body" means the board of directors of a district or agency or the board or body which governs the activities of the district or agency.

(9) "Landowner voting district" means a district whose principal act requires an elector to be an owner of land located within the district.

(10) "Principal act" means the law providing for the creation of a particular district or agency or type of district or agency.

(11) "Principal county" means the county in which all the land in the district or agency is situated, or if the district or agency is situated in more than one county, the county in which the greatest portion of the land in the district or agency is situated.

(12) "Resident voting district" means any district other than a landowner voting district.

(13) "Secretary" means the secretary of the governing body or a person designated by him to perform a duty of the secretary.

(14) "Supervising authority" means the board of supervisors of the county in which is situated all or most of the land of a district.

(15) "Voter" means voter or elector as respectively defined in the principal act of each district or agency.

10501. It is the purpose of this part to provide a procedure for the election of elective officers of districts. These elections shall be called and conducted and the results canvassed, returned, and declared pursuant to this part.

10502. (a) This part shall apply to all districts and agencies whose principal acts so provide. However, the provisions of this part requiring the county elections official to conduct elections shall apply to all resident voting districts and agencies, and, at the discretion of the county elections official, may apply to landowner voting districts, notwithstanding any other provision of law.

(b) Notwithstanding subdivision (a), the county elections official shall conduct an election on behalf of a landowner voting district if the governing body of the district, by resolution, requests that assistance and agrees to reimburse the county pursuant to Section 10520 and any county ordinances or resolutions consistent therewith. A district making that request shall supply information regarding qualified voters pursuant to Section 10525, and any other pertinent information requested by the county elections official. The election may be conducted by all-mailed ballots at the discretion of the county elections official. The election may not be held on the same date as a regularly scheduled election. The county elections official may rely upon the list of qualified voters and other information supplied by the district and shall not be required to determine the qualified voters. If the district does not supply the required information regarding qualified voters and other pertinent

information requested by the county elections official within the time specified in Section 10525, the county elections official shall have no further obligation with respect to the election, and the district shall be responsible for conducting all remaining election activities.

(c) Where this part conflicts with the principal act, this part shall apply and control.

(d) This part shall not apply to the election of elective officers of the district upon formation of the district, except as to the term of office of the officers.

10503. Where this part provides that the principal act shall govern, and the principal act contains no provisions on the matter, the general election laws of this state shall govern. Where neither this part nor the principal act apply, the general election laws of this state shall govern.

10504. Whenever this part requires the secretary of a district to deliver a notice or other information to the county elections official on or before a designated date, the secretary may personally deliver the notice or other information on or before that date, or may deliver the notice or other information by certified mail if the notice or other information will be received by the county elections official in the ordinary course of the mails on or before that designated date.

10505. The terms of office of elective officers in all new districts shall be determined as follows:

(a) If the district is formed in an odd-numbered year, the officers elected at the formation election shall hold office until noon on the first Friday in December of the next following odd-numbered year, provided officers elected at an election held on the first Tuesday after the first Monday in November shall hold office as provided in subdivision (c).

(b) If the district is formed in an even-numbered year, the officers elected at the formation election shall hold office until noon on the first Friday in December of the second next following odd-numbered year.

(c) The directors elected at the first general district election held in a district and at a formation election held at the same time as the general district election shall meet as soon as practicable after taking office and classify themselves by lot into two classes, as nearly equal in number as possible, and the terms of office of the class having the greater number shall be four years and the terms of office of the class having the lesser number shall be two years. All other elective officers elected at the election shall hold office for a term of four years or until their successor is elected and qualifies.

10506. Whenever a district shall increase the number of divisions, if there are any, the terms of office of the offices of director thus created shall be determined by the governing body, but in no event shall the term designated by the governing body be for more than four years. The terms of office thus created shall be determined in such a manner as to keep as nearly equal as practicable the number

of directors to be elected at each subsequent general district election. Upon the expiration of the term so designated by the governing body, the directorship shall be filled at the next general district election and general district elections held thereafter. The term of office of each subsequent director thus elected is four years or until his or her successor qualifies and takes office.

10507. Except as otherwise provided in this part, the term of office of each elective officer, elected or appointed pursuant to this part, is four years or until his or her successor qualifies and takes office.

10508. The principal act shall govern whether directors of a district are elected by divisions or by the district at large.

10509. On the 125th day prior to the day fixed for the general district election, the secretary shall deliver a notice to the county elections official. The notice shall bear the secretary's signature and the district seal and shall also contain both of the following:

(a) The elective offices of the district to be filled at the next general district election.

(b) Whether the district or the candidate is to pay for the publication of a statement of qualifications pursuant to Section 13307.

10510. (a) Forms for declarations of candidacy for all district offices shall be obtained from the office of the county elections official. The county elections official may, for convenience or necessity, authorize the district secretary to issue declarations of candidacy. The forms shall first be available on the 113th day prior to the general district election and shall be filed not later than 5 p.m. on the 88th day prior to the general district election in the office of the county elections official during regular office hours or may be filed by certified mail so that the forms reach the office of the county election official no later than the deadline for filing in that office. The county elections official shall record the date of filing upon the first page of each declaration of candidacy filed pursuant to this section. No candidate shall withdraw his or her declaration of candidacy after 5 p.m. on the 88th day prior to the general district election.

(b) On request of the district secretary, the county elections official shall provide the secretary with a copy of each declaration of candidacy filed pursuant to this section.

10511. The declaration of candidacy shall be in substantially the following form:

I, _____, do hereby declare myself as a candidate for election to the office of _____. I am a registered voter. If elected, I will qualify and accept the office of _____ and serve to the best of my ability. I request my name be placed on the official ballot of the district for the election to be held on the _____ day of _____, 19__, and that my name appear on the ballot as follows:

(Print name above)
My current residence address is
_____ and
my telephone number is _____.
I desire the following occupational designation to appear on the ballot under my name.

_____
(Print desired designation, if any, above)
This occupational designation is true and in conformance with Section 13107 of the Elections Code.

I am aware that any person who files or submits for filing a declaration of candidacy knowing that it or any part of it has been made falsely is punishable by a fine or imprisonment, or both, as set forth in Section 18203 of the Elections Code.
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____, 19___,
at _____ (Place).

_____
(Signature of Candidate)

10512. Each candidate shall set forth in full the oath or affirmation set forth in Section 3 of Article XX of the California Constitution, which shall be filed with the declaration of candidacy and which shall satisfy the provisions of Section 3 of Article XX of the California Constitution with respect to any district office. The county elections official or district secretary, or a person designated by the county elections official or district secretary, shall administer the oath.

10513. Upon filing each declaration of candidacy, the county elections official shall examine the declaration to determine if it conforms with the provisions of this part and shall certify whether it is sufficient. For this purpose, the elections official shall be entitled to obtain from any officer of an affected county all information necessary to make this determination.

10514. The qualifications of a candidate for elective office, and of an elective officer, of a district shall be determined by the principal act of that district.

10515. (a) If, by 5 p.m. on the 83rd day prior to the day fixed for the general district election: (1) only one person has filed a declaration of candidacy for any elective office to be filled at that election, (2) no one has filed a declaration of candidacy for such an office, (3) in the case of directors to be elected from the district at large, the number of persons who have filed a declaration of candidacy for director at large does not exceed the number of offices of director at large to be filled at that election, or (4) in the case of directors who must reside in a division but be elected at large, the

number of candidates for director at large from a division does not exceed the number required to be elected director at large while residing in that division; and if a petition signed by 10 percent of the voters or 50 voters, whichever is the smaller number, in the district or division if elected by division, requesting that the general district election be held has not been presented to the officer conducting the election, he or she shall submit a certificate of these facts to the supervising authority and request that the supervising authority, at a regular or special meeting held prior to the Monday before the first Friday in December in which the election is held, appoint to the office or offices the person or persons, if any, who have filed declarations of candidacy. The supervising authority shall make these appointments.

(b) If no person has filed a declaration of candidacy for any office, the supervising authority shall appoint any person to the office who is qualified on the date when the election would have been held. The person appointed shall qualify and take office and serve exactly as if elected at a general district election for the office.

(c) Where a director must be appointed to represent a division, all or most of which is not within the county governed by the supervising authority, then the board of supervisors of the county within which all or most of that division is located shall be the body to which request for appointment is made and which shall make the appointment.

10516. (a) Notwithstanding any other provision of law, in any district or agency election, if a declaration of candidacy for an incumbent elective officer of a district is not filed by 5 p.m. on the 88th day before the general district election, any person other than the person who was the incumbent on the 88th day shall have until 5 p.m. on the 83rd day before the election to file a declaration of candidacy for the elective office.

(b) This section is not applicable where there is no incumbent to be elected. If this section is applicable, notwithstanding Section 10510, a candidate may withdraw his or her declaration of candidacy until 5 p.m. on the 83rd day before the general election.

10517. Except as otherwise provided by this part, the county elections official of each affected county shall conduct the general district election for the portion of the district located within the county. Where a district is located in two or more counties, the county elections officials of these counties may contract among themselves to have one of their number conduct the election for the district.

10518. If, within any portion of a county, only one district has scheduled a general district election, the county elections official may authorize the appropriate officer of the district to perform any of the functions required of the county elections official under this part.

10519. At the request of a district governing body, the county elections official may perform any of the duties of the district

secretary and the supervising authority may perform any of the duties of the district governing body.

10520. Each district involved in a general district election in an affected county shall reimburse the county for the actual costs incurred by the county elections official thereof in conducting the general district election for that district. The county elections official of the affected county shall determine the amount due from each district and shall bill each district accordingly.

10521. Qualifications of voters of a district, the number of votes each voter may cast, and the method of determining that number of votes shall be governed by the principal act of that district.

10522. At least 125 days prior to the day fixed for the general district election, the secretary of a resident voting district shall deliver to the county elections official of each affected county a map showing the boundaries of the district and the boundaries of the divisions of the district, if any, within that county and a statement indicating in which divisions a director is to be elected and whether any elective officer is to be elected at large at the next general district election.

10523. Notwithstanding any provision in the principal act, elections shall be at large in any resident voter district in which there are fewer than 100 voters.

10524. At least 125 days prior to the date fixed by the general district election, the secretary of a landowner voting district shall deliver to the county elections official of each affected county a map or description of the boundaries of the district or divisions for which elections are to be held.

10525. (a) At least 35 days prior to the date fixed for the landowner district election, the secretary of a landowner district for which an election has not been canceled pursuant to Section 10515, shall deliver to the county elections official of each affected county a list of voters qualified under the principal act of that district to vote in that county at the next landowner district election. For this purpose, the secretary of a landowner voting district shall be entitled to obtain from any office of an affected county all information necessary to prepare the list.

(b) The list delivered pursuant to subdivision (a) shall contain the name of each voter qualified under the principal act of the landowner voting district to vote at the next landowner district election, the residence of each voter, the division, if any, of the district in which each voter is entitled to vote, and the manner in which the votes are to be distributed.

(c) The secretary of the landowner district shall sign his or her name and affix the seal of the district at the bottom of the last page of the list. One copy of this list shall be conspicuously posted in the office of the district in a place to which the public generally has access. If the office is located in a private home, the list shall be posted in some public building.

(d) The governing board may, by resolution, determine that the

duties of the secretary set forth in this section would best be performed by the county elections official, in which case the county elections official shall thereafter assume these duties.

10526. At least 30 days prior to the day fixed for the next general district election, the county elections official shall have prepared a sufficient number of ballots for the voters of each resident voter district participating in the election.

10527. At least 20 days prior to the date fixed for the next general district election, the county elections official shall have prepared a sufficient number of ballots for the voters of each landowner voting district participating in the election.

10528. Except as otherwise provided by this part, the form of the ballot to be used by the voters of a landowner voting district participating in the general district election shall be governed by the principal act of that district. The county elections official shall determine and specify the form of the ballot to be used by the voters of resident voting districts and may, if practicable, provide a consolidated ballot covering two or more district elections in the same precinct.

10529. Whenever a candidate has filed a declaration of candidacy, and the candidate's declaration of candidacy has been certified as sufficient pursuant to Section 10513, the name of the candidate shall be printed upon the ballot unless the candidate has died and that fact has been ascertained by the officer charged with the duty of printing the ballots, at least 68 days before the day of the election.

10530. Absent voting shall be allowed and conducted as nearly as practicable in accordance with Division 3 (commencing with Section 3000) pertaining to general elections, except in those districts in which voting by proxy is allowed unless a particular district shall, by resolution pursuant to Section 4108, provide for an all-mail ballot election.

10531. Notwithstanding any other provision of law, special absent voting shall be allowed in lieu of voting by proxy in any landowner district election in which voting by proxy is allowed, provided that, at least 110 days before the election, the governing board of the district adopts this section. If a district adopts this section, the voting shall be conducted as follows:

(a) The absentee ballot shall be available to any eligible voter of the district.

(b) The form of application for the ballot shall be distributed to each voter with the sample ballot and shall contain spaces for each of the following:

(1) The printed name and address of the voter.

(2) The address to which the ballot is to be mailed.

(3) The voter's signature.

(4) The authorization of a legal representative, as defined in Section 34030 of the Water Code, to receive the absent voter's ballot if the voter so chooses.

(5) The name and date of the election for which the request is

made.

(6) The date the application shall be received by the county elections official, which date shall be at least seven days before the election.

(7) The insertion of the sample ballot name and address label on the application.

(c) Upon receipt of absentee ballot application and verification that it has been properly completed, the county elections official shall mail an absent voter's ballot to the voter or legal representative with an identification envelope, which shall contain each of the following:

(1) A declaration under penalty of perjury stating that the voter is entitled to vote in the election.

(2) Space for the signature of the voter or legal representative and the date of signing.

(3) A notice that the envelope contains an official ballot and is to be opened only by the appropriate election officials.

(d) The voting shall be pursuant to those additional procedures, if any, which the county elections official shall deem necessary to the proper conduct of the election, provided that the overall additional procedures shall substantially comply with Division 3 (commencing with Section 3000) and Chapter 1 (commencing with Section 1400) of Division 15, and shall be consistent with landowner voting requirements.

(e) Notwithstanding Section 10525, the list of voters for landowner voting district elections in which absentee voting is allowed shall be delivered to the county elections official at least 40 days prior to the election.

(f) Notwithstanding Section 12117, the sample ballot for landowner voting district elections in which absent voting is allowed shall be mailed at least 20 days before the election.

10532. Nothing in this part shall prohibit a voter of a district, or his legal representative, from voting by proxy if this right is provided for by the principal act of that district, and the requirements and qualifications necessary for voting by proxy shall be governed, as nearly as practicable, by the principal act of that district.

10533. (a) The county elections official shall prepare for each precinct one voter list and one roster for each ballot form to be used at the polling place of the precinct at the general district election. Where, as provided by Section 10528, the county elections official provides for a consolidated ballot covering two or more district elections in the same precinct, the county elections official may also provide a consolidated voter list and consolidated roster for the voters receiving the consolidated ballot. The county elections official shall furnish each precinct board with its respective lists and rosters prior to the opening of the polls.

(b) For a landowner voting district election, the voter list shall specify the number of votes each voter is entitled to cast.

10534. If the county elections official fails to appoint a precinct

board or the members appointed are not present when the polls open on the day of the general district election, a majority of the voters of the precinct present at that hour, including members of the precinct board, may appoint the precinct board or appoint a person in place of an absent member.

10535. The inspector is chairman of the precinct board.

10536. If during the election any judge or elections official ceases to act, the inspector may appoint a substitute.

10537. If the inspector ceases to act, a majority of the remaining members of the precinct board may appoint a substitute.

10538. Any member of a precinct board may administer and certify oaths required to be administered during an election.

10539. Before opening the polls, each member of the precinct board shall sign a declaration to perform faithfully his or her duties, before the inspector or before any other member of the board.

10540. Candidates' statements of their qualifications submitted in accordance with Section 13307 shall be filed with the county clerk who shall cause the voters' pamphlet, if any is required, to be mailed along with the notice required by Section 12117.

10541. The polls shall open at 7 a.m. and remain open until 8 p.m. In any precinct in which all of the eligible voters have voted prior to the time for closing the polls, the precinct board may thereupon close the polls, canvass the votes and make the returns as required by law. However, regardless of the time of closing the polls, no totals of votes cast or other returns shall be announced or disclosed prior to 8 p.m.

10542. The principal act of each landowner voting district participating in the general district election shall govern the manner in which the ballot is delivered by the clerk or judge to a voter of that district, the method by which the voter casts his vote or votes, and the manner in which the ballot is returned by the voter to the clerk or judge and placed in the ballot box.

10543. Voting shall be conducted, the canvass at the polls made, and the returns delivered to the county elections official, except as otherwise provided by this part, as nearly as practicable in accordance with the provisions of this code pertaining to general elections.

10544. A governing body of a district may, by resolution, limit campaign contributions in elections to district offices.

10545. The envelope, certificate with the roster of voters, tally lists, voter list, and the marked copy of index of voters, if it is used, shall be:

(a) Sealed in an envelope by the inspector in the presence of the judge and clerk.

(b) Endorsed "Election returns of (naming the precinct) precinct."

(c) Directed to the county elections official.

(d) Immediately delivered by the inspector or by a responsible person designated by him, to the county elections official.

10546. Recount of votes in any general district election shall be governed by the provisions of Chapter 12 (commencing with Section 15600) of Division 15.

10547. The county elections official shall commence the canvass of the returns not later than the first Thursday after each general district election.

10548. The canvass shall be made in public and by opening the returns and determining the vote for each person voted for and declaring the results thereof.

10549. No roster, tally list, or certificate returned from any general district election shall be set aside or rejected for want of form if it can be satisfactorily understood.

10550. As soon as the result of the canvass by the county elections official is declared, the county elections official shall prepare and mail a statement of the result to the secretary of each district participating in the general district election. The statement shall be signed by the county elections official, authenticated by the seal of the county and shall show:

(a) The number of ballots cast for elective offices of that district and, when directors of that district are elected by divisions, the number of ballots cast in each division.

(b) The name of each candidate for an elective office of that district voted for and the office.

(c) The number of votes cast in each precinct for each candidate.

(d) When directors are elected by divisions, the number of votes cast in each division for each candidate for the office of director from that division.

(e) The number of votes cast in the district for all other elective offices of that district.

10551. (a) No later than the Monday before the first Friday in December the county elections official shall declare the elected candidate or candidates. If there is but one person to be elected to an elective office, the candidate receiving the highest number of votes cast for the candidates for that office shall be declared elected. If there are two or more persons to be elected to an elective office, those candidates equal in number to the number to be elected who receive the highest number of votes for the office shall be declared elected.

(b) If a tie vote makes it impossible to determine which of two or more candidates has been elected, the county elections official shall notify the governing body of the district thereof, and the governing body shall forthwith notify the candidates who have received the tie votes to appear before it either personally or by representative at a time and place designated by the governing body. The governing body shall, at that time and place, determine the tie by lot and the results thereof shall be declared by the governing body. The candidate so chosen shall qualify, take office and serve as though elected at the preceding general district election.

10552. No later than December 31 immediately following a

general district election, the county elections official shall file with the Secretary of State a statement containing all of the following for each election in the county held pursuant to this part:

(a) The list of offices to be filled.

(b) The name of each candidate, including occupational designation, if any.

(c) The name of each successful candidate.

(d) The number of voters eligible to vote in the district and, if voting is by division, the number of voters eligible to vote in each division.

(e) The number of votes for each candidate.

(f) The list of offices for which appointments have been made in lieu of election pursuant to Section 10515 together with names of the persons so appointed.

10553. The county elections official shall immediately make and deliver to each person elected a certificate of election signed by the county elections official.

10554. Elective officers, elected or appointed pursuant to this part, take office at noon on the first Friday in December next following the general district election. Prior to taking office, each elective officer shall take the official oath and execute any bond required by the principal act.

10555. Notwithstanding Chapter 1 (commencing with Section 1000) of Division 1, no landowner voting district election shall be consolidated with any resident voter election regardless of whether it is held pursuant to this part. Except as specified in the preceding sentence, an election conducted by a district subject to this part may be consolidated with any other election pursuant to Part 3 (commencing with Section 10400).

10556. No informalities in the conduct of the general district election or any matters related to it shall invalidate the election if fairly conducted.

PART 5. SCHOOL DISTRICT AND COMMUNITY COLLEGE DISTRICT GOVERNING BOARD ELECTIONS

10600. When one member of the governing board of a school district or community college district is to be elected, the candidate receiving the highest number of votes shall be elected. When two or more members are to be elected, the two or more candidates receiving the highest number of votes shall be elected. Each voter may vote for as many candidates as there are members to be elected. The ballot shall contain instructions stating the maximum number of candidates for whom each voter may vote.

10601. Notwithstanding Section 10600, the governing board of any community college district may, by a resolution adopted by a majority vote of the board, assign a number to each seat on the board to be selected by lot. Once the numbers are assigned, any candidate for election to the board shall be required to run for a particular

numbered seat on the board and be elected by the voters of the district at large.

10602. (a) The forms for declaration of candidacy for governing board elections shall be in substantially the following form:

"I, _____, do hereby declare myself as a candidate for election to the governing board of _____ District, of the County of _____; I am a registered voter; if elected I will qualify and serve to the best of my ability; and I request my name be placed on the official ballots of the district, for the election to be held on the _____ day of _____, 19____.

_____

Residence address: _____"

(b) In an election held under Section 5018 of the Education Code to elect additional governing board members, all candidates for member of the governing board shall also indicate on their declaration of candidacy whether they are candidates for the existing office or for the new offices.

10603. (a) Notwithstanding Section 5012 of the Education Code, if a declaration of candidacy for an incumbent member of a school district or community college district governing board or of a county board of education is not filed by 5 p.m. on the 88th day before the election, any person, other than the person who was the incumbent on the 88th day, shall have until 5 p.m. on the 83rd day before an election to file a declaration of candidacy for the elective office.

(b) This section is not applicable where there is no incumbent eligible to be elected.

PART 6. ELECTIONS TO FILL VACANCIES

CHAPTER 1. NOMINATION OF CANDIDATES FOR LEGISLATIVE AND CONGRESSIONAL OFFICES AT SPECIAL ELECTIONS

10700. The Governor shall call all statewide special elections by issuing a proclamation pursuant to Section 12000. In the case of a vacancy in a congressional or legislative office the Governor shall issue a proclamation, within 14 calendar days of the occurrence of the vacancy, calling a special election in accordance with Section 10703. A copy of the proclamation shall be sent to the board of supervisors of every affected county.

10701. (a) When a vacancy occurs in a congressional office after the close of the nomination period in the final year of the term of office, the Governor may decline to issue an election proclamation at his discretion.

(b) When a vacancy occurs in a legislative office after the close of the nomination period in the final year of the term of office, no special election shall be held.

10702. Candidates at any special election to fill a vacancy in the

office of Representative in Congress, State Senator, or Member of the Assembly shall be nominated as provided in this chapter.

10703. (a) A special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of Assembly shall be conducted on a Tuesday at least 112 days, but not more than 119 days, following the issuance of an election proclamation by the Governor pursuant to Section 1773 of the Government Code, except that any special election may be conducted within 180 days following the proclamation in order that the election or the primary election may be consolidated with the next regularly scheduled statewide election or local election occurring wholly or partially within the same territory in which the vacancy exists, provided that the voters eligible to vote in the local election comprise at least 50 percent of all the voters eligible to vote on the vacancy.

(b) In no event may a special election or a primary election be conducted on the day after a state holiday.

10704. (a) A special primary election shall be held in the district in which the vacancy occurred on the eighth Tuesday or, if the eighth Tuesday is the day of or the day following a state holiday, the ninth Tuesday preceding the day of the special general election at which the vacancy is to be filled. Candidates at the primary election shall be nominated in the manner set forth in Chapter 1 (commencing with Section 8000) of Part 1 of Division 8, except that nomination papers shall not be circulated more than 63 days before the primary election, shall be left with the county elections official for examination not less than 43 days before the primary election, and shall be filed with the Secretary of State not less than 39 days before the primary election.

(b) Notwithstanding Section 3001, applications for absent voter ballots may be submitted not more than 25 days before the primary election, except that Section 3001 shall apply if the special election or special primary election is consolidated with a statewide election. Applications received by the elections official prior to the 25th day shall not be returned to the sender, but shall be held by the elections official and processed by him or her following the 25th day prior to the election in the same manner as if received at that time.

10705. (a) All candidates shall be listed on one ballot and, except as provided in subdivision (b), if any candidate receives a majority of all votes cast, he or she shall be declared elected, and no special general election shall be held.

(b) If only one candidate qualifies to have his or her name printed on the special general election ballot, that candidate shall be declared elected, and no special general election shall be held, even if that candidate received less than a majority of the votes cast.

10706. (a) If no candidate receives a majority of votes cast, the name of that candidate of each qualified political party who receives the most votes cast for all candidates of that party shall be placed on the special general election ballot as the candidate of that party.

(b) In addition to the candidates referred to in subdivision (a),

each candidate who has qualified for the ballot by reason of the independent nomination procedure pursuant to Part 2 (commencing with Section 8300) of Division 8 shall be placed on the special general election ballot as an independent candidate. However, if two or more these candidates are recorded on their affidavits of registration as being affiliated with the same political body, only the candidate with the greatest number of votes shall be placed on the special general election ballot.

10707. Notwithstanding any other provisions of this code, whenever a special general election, or a special primary election, to fill a vacancy in Congress or the State Legislature is consolidated with a statewide election, the candidates to fill the vacancy shall appear on the consolidated ballot immediately preceding the candidates for that same seat in Congress or the seat in the Legislature that most nearly encompasses the same geographical area at the statewide election, or the elections official at his or her option may print a separate and distinct ballot.

CHAPTER 2. VACANCY IN SENATE

10720. If a vacancy occurs in the representation of this state in the Senate of the United States, the Governor may appoint and commission an elector of this state who possesses the qualifications for the office to fill the vacancy until his or her successor is elected and qualifies and is admitted to his or her seat by the United States Senate. However, whenever a vacancy occurs within a term fixed by law to expire on the third day of January following the next general election, the person so appointed shall hold office for the remainder of the unexpired term unless the vacancy is filled at a special election held prior to the general election, in which case the person elected at the special election shall hold office for the remainder of the unexpired term. An election to fill a vacancy in the term of a United States Senator shall be held at the general election next succeeding the occurrence of the vacancy or at any special election.

DIVISION 11. RECALL ELECTIONS

CHAPTER 1. GENERAL PROCEDURES: GENERAL PROVISIONS AND INITIAL STEPS IN THE RECALL

Article 1. General Provisions

11000. This division governs the recall of elective officers of the State of California and of all counties, cities, school districts, county boards of education, community college districts, special districts, and judges of courts of appeal and trial courts. It does not supersede the provisions of a city charter or county charter, or of ordinances adopted pursuant to a city charter or county charter, relating to recall.

11001. For the purposes of this division, judges of courts of appeal shall be considered state officers, and judges of trial courts shall be considered county officers.

11002. For the purposes of this division, "elections official" means one of the following:

(a) A county elections official, including, but not necessarily limited to, a county clerk, in the case of the recall of elective officers of a county, school district, county board of education, community college district, or resident voting district, and of judges of trial courts.

(b) A city elections official, including, but not necessarily limited to, a city clerk, in the case of the recall of elective officers of a city.

(c) The secretary of the governing board in the case of the recall of elective officers of a landowner voting district or any district in which, at a regular election, candidate's nomination papers are filed with the secretary of the governing board.

11003. For the purposes of this division, "governing board" means a city council, the board of supervisors of a county, the board of trustees of a school district or community college district, or the legislative body of a special district, as the context requires. In the case of the recall of a trial court judge, "governing board" means the board of supervisors.

11004. For the purposes of this division, a "local officer" is an elective officer of a city, county, school district, community college district, or special district, or a judge of a trial court.

11005. The proponents of a recall must be registered voters of the electoral jurisdiction of the officer they seek to recall.

11006. Proceedings may be commenced for the recall of any elective officer, including any officer appointed in lieu of election or to fill a vacancy, by the service, filing and publication or posting of a notice of intention to circulate a recall petition pursuant to this chapter.

11007. Except when a person has been appointed to office pursuant to Section 10229 because no person had been nominated to office, proceedings may not be commenced against an officer of a city, county, special district, school district, community college district, or county board of education in the event of one or more of any of the following:

(a) He or she has not held office during his current term for more than 90 days.

(b) A recall election has been determined in his or her favor within the last six months.

(c) His or her term of office ends within six months or less.

Article 2. The Notice of Intention, Statement, and Answer

11020. The notice of intention shall contain all of the following:

(a) The name and title of the officer sought to be recalled.

(b) A statement, not exceeding 200 words in length, of the reasons

for the proposed recall.

(c) The printed name, signature, and business or residence address of each of the proponents of the recall. The minimum number of signatures shall be ten, or equal to the number of signatures required to have been filed on the nomination paper of the officer sought to be recalled, whichever is higher.

(d) The provisions of Section 11023.

11021. The notice of intention shall be served by personal delivery, or by certified mail, on the officer sought to be recalled. Within seven days of serving the notice of intention, a copy thereof shall be filed, along with an affidavit of the time and manner of service, with the elections official or, in the case of the recall of a state officer, the Secretary of State. A separate notice of intention shall be filed for each officer sought to be recalled.

11022. The notice, except the provisions required by subdivision (d) of Section 11020, shall be published at the proponents' expense pursuant to Section 6061 of the Government Code. If this publication is not possible, the notice, except the provisions required by subdivision (d) of Section 11020, shall be posted in at least three public places within the jurisdiction of the officer to be recalled.

11023. (a) Within seven days after the filing of the notice of intention, the officer sought to be recalled may file with the elections official, or in the case of a state officer, the Secretary of State, an answer, in not more than 200 words, to the statement of the proponents.

(b) If an answer is filed, the officer shall, within seven days after the filing of the notice of intention, also serve a copy of it, by personal delivery or by certified mail, on one of the proponents named in the notice of intention.

(c) The answer shall be signed and shall be accompanied by the printed name and business or residence address of the officer sought to be recalled.

11024. The statement and answer are intended solely for the information of the voters. No insufficiency in form or substance thereof shall affect the validity of the election proceedings.

Article 3. Recall Petition

11040. (a) The petition may consist of any number of separate sections, which shall be duplicates except as to signatures and matters required to be affixed by signers and circulators. The number of signatures attached to each section shall be at the pleasure of the person soliciting the signatures.

(b) Each section of the petition may consist of any number of separate pages. A page shall consist of each side of a sheet of paper on which any signatures appear.

11041. (a) Before any signature may be affixed to a recall petition, each page of each section must bear all of the following in no less than 6-point type:

(1) A request that an election be called to elect a successor to the officer. However, if the officer is a justice of the Supreme Court or of a court of appeal, as specified in subdivision (a) of Section 16 of Article VI of the California Constitution, the request shall be that the Governor appoint a successor to the officer. In the case of a city recall, a request that an election be called to determine whether the officer shall be removed from office and whether the vacancy, if any, shall be filled by appointment or special election.

(2) A copy of the notice of intention, including the statement of grounds for recall. The provisions of Section 27023 do not need to be included as part of the language of the notice of intention.

(3) The answer of the officer sought to be recalled, if any. If the officer sought to be recalled has not answered, the petition shall so state.

(b) All petition sections shall be printed in uniform size and darkness with uniform spacing.

11042. (a) Within 10 days after filing of the answer to the notice of intention, or, if no answer is filed, within 10 days after the expiration of the seven-day period specified in Section 11023, the proponents shall file two blank copies of the petition with the elections official in his or her office during normal office hours as posted or, in the case of a recall of a state officer, with the Secretary of State, in his or her office during normal office hours as posted, who shall ascertain if the proposed form and wording of the petition meets the requirements of this chapter.

(b) At the time of the filing of the two blank copies of the petition, the proponents shall also file proof of publication of the notice of intention, if the notice of intention was published, or an affidavit of posting of the notice of intention, if the notice of intention was posted. The elections official or, in the case of a recall of a state officer, the Secretary of State, shall, within 10 days of receiving the blank copies of the petition, notify the proponents in writing of his or her finding.

(c) If the elections official finds that the requirements of this chapter are not met, the elections official shall include in his or her findings a statement as to what alterations in the petition are necessary. The proponents shall, within 10 days after receiving the notification, file two blank copies of the corrected petition with the elections official in his or her office during normal office hours as posted. The 10-day correction notification period and the 10-day filing period for corrected petitions shall be repeated until the elections official or the Secretary of State finds no alterations are required.

(d) No signature may be affixed to a recall petition until the elections official or, in the case of the recall of a state officer, the Secretary of State, has notified the proponents that the form and wording of the proposed petition meet the requirements of this chapter.

11043. (a) The petition sections shall be designed so that each

signer shall personally affix all of the following:

(1) His or her signature.

(2) His or her printed name.

(3) His or her residence address, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(4) The name of the incorporated city or unincorporated community in which he or she resides.

(b) A margin, at least one inch wide, shall be left blank across the top of each page of the petition. A margin, at least one-half inch wide, shall be left blank along the bottom of each page of the petition.

(c) A space, at least one inch wide, shall be left blank after each name for the use of the elections official in verifying the petition.

11044. Separate petitions are necessary to propose the recall of each officer.

11045. Only registered voters of the electoral jurisdiction of the officer sought to be recalled are qualified to circulate or sign a recall petition for that officer.

11046. Each section of the petition shall have attached to it a declaration signed by the circulator of that section of the petition, setting forth all of the following:

(a) The printed name of the circulator.

(b) The residence address of the circulator, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained.

(c) That the circulator circulated that section and witnessed the appended signatures being written.

(d) That, according to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.

(e) That the circulator is a registered voter of the electoral jurisdiction of the officer sought to be recalled.

(f) The dates between which all the signatures to the petition section were obtained.

(g) The circulator shall certify to the content of the declaration as to its truth and correctness, under penalty of perjury under the laws of the State of California, with the signature of his or her name at length, including given name, middle name or initial, or initial and middle name. The circulator shall state the date and the place of execution on the declaration immediately preceding the circulator's signature.

11047. When a petition is circulated in more than one county for the recall of an officer, each section of the petition shall bear the name of the county in which it is circulated, and only registered voters of that county may sign that section.

CHAPTER 2. RECALL OF STATE OFFICERS: INTERMEDIATE STEPS IN THE RECALL

11100. (a) This chapter applies only to the recall of state officers.

(b) In addition to this chapter, Sections 13 to 18, inclusive, of Article 11 of the California Constitution and the applicable provisions of Chapter 1 (commencing with Section 11000) and Chapter 4 (commencing with Section 11300) shall govern the recall of state officers.

11101. (a) Unless and until it is otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of registered voters.

(b) Each section of a recall petition shall be filed with the elections official of the county in which it was circulated.

(c) Each section of the petition shall be filed by the proponents or by any person or persons authorized, in writing, by a proponent. Every person authorized in writing by a proponent to file a section or sections of the petition shall submit a copy of the written authorization to the elections official each time he or she files a section or sections of a petition.

(d) Thirty days after a recall has been initiated, and every 30 days thereafter, the elections official shall determine from the records of registration what number of registered voters have signed recall petitions.

(e) Upon each submission, if less than 500 signatures are submitted to the elections official, he or she shall count the number of signatures and submit those results to the Secretary of State. If 500 or more signatures are submitted, the elections official may verify, using a random sampling technique, either 3 percent of the signatures submitted, or 500, whichever is less. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the elections official shall be given an equal opportunity to be included in the sample. Upon completion of the signature verification, the elections official shall report the results to the Secretary of State.

(f) Immediately after the deadline for submission of all signatures, the elections official shall verify the signatures in the same manner set forth in subdivisions (b), (c), (d), (e), (f), and (g) of Section 9030, and in Section 9031. This verification process shall apply to all signatures submitted to each county elections official.

(g) The elections official, upon the completion of each examination, shall forthwith attach to the petition a certificate, properly dated, showing the result of the examination, and submit a copy of the petition, except as to the signatures appended thereto, to the Secretary of State and file a copy of the certificate in his or her office.

11102. When the Secretary of State has received from one or more county elections officials a petition certified as herein provided to have been signed by the stated number of registered voters, he or

she shall, within 10 days, transmit to the elections official of every county in the state a certificate showing that fact, and showing the total number of signatures collected by the proponents. This elections official shall file the certificate for record in his or her office.

11103. When the Secretary of State determines that the proponents have collected sufficient signatures, he or she shall certify that fact to the Governor.

11104. Upon receiving certification of the sufficiency of the recall petitions from the Secretary of State, the Governor shall make, or cause to be made, publication of notice for the holding of the election. Officers charged by law with duties concerning elections shall make all arrangements for the election. The election shall be conducted, returned, and the result declared, in all respects as are other state elections.

CHAPTER 3. RECALL OF LOCAL OFFICERS: INTERMEDIATE STEPS IN THE RECALL

Article 1. General Provisions

11200. This chapter shall apply to the recall of local officers.

11201. When the city or county elections official is the officer sought to be recalled, the duties imposed upon him or her shall be performed by some other person designated by the governing board.

Article 2. Recall Petitions

11220. (a) A recall petition shall be submitted to the elections official for filing in his or her office during normal office hours as posted within the following number of days after the clerk or, in the case of a recall of a state officer, the Secretary of State, notifies the proponents that the form and wording of the petition meets the requirements of Article 3 (commencing with Section 11040) of Chapter 1:

(1) Forty days if the electoral jurisdiction has less than 1,000 registered voters.

(2) Sixty days if the electoral jurisdiction has less than 5,000 registered voters but at least 1,000.

(3) Ninety days if the electoral jurisdiction has less than 10,000 registered voters but at least 5,000.

(4) One hundred twenty days if the electoral jurisdiction has less than 50,000 registered voters but at least 10,000.

(5) One hundred sixty days if the electoral jurisdiction has 50,000 registered voters or more.

(b) For purposes of this section, the number of registered voters shall be that which was reported at the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187 and prior to a finding of the elections official or Secretary of State that no alterations are required in the form of the

recall petition pursuant to Section 11042.

11221. The number of qualified signatures required in order to qualify a recall for the ballot shall be as follows:

(a) In the case of an officer of a city, county, school district, community college district, county board of education, or resident voting district, the number of signatures shall be equal in number to not less than the following percent of the registered voters in the electoral jurisdiction:

(1) Thirty percent if the registration is less than 1,000.

(2) Twenty-five percent if the registration is less than 10,000 but at least 1,000.

(3) Twenty percent if the registration is less than 50,000 but at least 10,000.

(4) Fifteen percent if the registration is less than 100,000 but at least 50,000.

(5) Ten percent if the registration is 100,000 or above.

(b) For purposes of this section, the number of registered voters shall be calculated as of the time of the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187, and prior to the finding by the elections official or Secretary of State that no alterations are required in the form of the recall petition pursuant to Section 11042.

(c) (1) In the case of a state officer, including judges of courts of appeal and trial courts, the number of signatures shall be as provided for in subdivision (b) of Section 14 of Article II of the California Constitution. In the case of a judge of a superior, municipal, or justice court, which office has never appeared on the ballot since its creation, or did not appear on the ballot at its last election pursuant to Section 8203, the number of signatures shall be as provided in subdivision (b) of Section 14 of Article II of the California Constitution, except that the percentage shall be based on the number of votes cast within the judicial jurisdiction for the countywide office which had the least number of votes in the most recent general election in the county in which the judge holds his or her office.

(2) For purposes of this subdivision, "countywide office" means an elective office wholly within the county which is voted on throughout the county.

(d) In the case of a landowner voting district, signatures of voters owning at least 10 percent of the assessed value of land within the electoral jurisdiction of the officer sought to be recalled.

11222. (a) The petition shall be filed by the proponents, or by any person or persons authorized, in writing, by a proponent. All sections of the petition shall be filed at the same time.

(b) When the petition is presented for filing, the elections official shall determine the total number of signatures affixed to the petition. If, from this examination, the elections official determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, the elections official shall

accept the petition for filing. The petition shall be deemed as filed on that date. Any sections of the petition not so filed shall be void for all purposes. If, from the elections official's examination, the elections official determines that the number of signatures, prima facie, does not equal or exceed the minimum number of signatures required, the petition shall not be filed. Any petition not accepted for filing shall be returned to the proponents.

11223. If the petition was circulated in more than one county, the elections official of each county shall affix, with the certificate showing the results of his or her examination, the number of registered voters of the county residing within the electoral jurisdiction of the officer sought to be recalled.

11224. (a) Except as provided in Section 11225, within 30 days from the date of filing of the petition, the elections official shall examine the petition, and from the records of registration, ascertain whether or not the petition is signed by the requisite number of voters. If the elections official's examination shows that the number of valid signatures is greater than the required number, the elections official shall certify the petition to be sufficient. If the number of valid signatures is less than the required number, the elections official shall certify the petition to be insufficient.

(b) In determining the number of valid signatures, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(c) The elections official shall attach to the petition a certificate showing the result of this examination, and shall notify the proponents of either the sufficiency or insufficiency of the petition.

(d) If the petition is found sufficient, the elections official shall certify the results of the examination to the governing board at its next regular meeting.

11225. (a) Within 30 days from the date of filing of the petition, if, from the examination of petitions pursuant to Section 11222, more than 500 signatures have been signed on the petition, the elections official may use a random sampling technique for verification of signatures. The random sample of signatures to be verified shall be drawn in a manner so that every signature filed with the elections official shall have an equal opportunity to be included in the sample. The random sampling shall include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

(b) If the statistical sampling shows that the number of valid signatures is greater than 110 percent of the required number, the elections official shall certify the petition to be sufficient.

(c) If the statistical sampling shows that the number of valid signatures is within 90 to 110 percent of the number of signatures of qualified voters needed to declare the petition sufficient, the elections official shall examine and verify each signature filed. If the elections official's examination of each signature shows that the

number of valid signatures is greater than the required number, the elections official shall certify the petition to be sufficient. If the number of valid signatures is less than the required number, the elections official shall certify the petition to be insufficient.

(d) If the statistical sampling shows that the number of valid signatures is less than 90 percent of the required number, the elections official shall certify the petition to be insufficient.

(e) In determining from the records of registration the number of valid signatures signed on the petition, the elections official may use the duplicate file of affidavits maintained, or may check the signatures against facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(f) The elections official shall attach to the petition, a certificate showing the result of this examination, and shall notify the proponents of either the sufficiency or insufficiency of the petition.

(g) If the petition is found insufficient, no action shall be taken on the petition. However, the failure to secure sufficient signatures shall not preclude the filing later of an entirely new petition to the same effect.

(h) If the petition is found to be sufficient, the elections official shall certify the results of the examination to the governing body at its next regular meeting.

11226. If the certificate shows that the petition is insufficient, no action shall be taken on it, but the petition shall remain on file.

11227. If the elections official finds the signatures on the petition to be sufficient, he or she shall submit his or her certificate as to the sufficiency of the petition to the governing body at its next regular meeting. The certificate shall contain:

(a) The name of the officer whose recall is sought.
(b) The title of his or her office.
(c) The number of signatures required by law.
(d) The total number of signatures on the petition.
(e) The number of valid signatures on the petition.
(f) The number of signatures which were disqualified.

Article 3. The Recall Election

11240. Within 14 days after the meeting at which the governing body received the certificate of sufficiency as specified in Section 11227, the governing body shall issue an order stating that an election shall be held pursuant to this article to determine whether or not the officer named in the petition shall be recalled.

11241. If the governing board fails to issue the order within the time specified in Section 11240, the county elections official, within five days, shall set the date for holding the election. If the recall is to be voted on by voters in more than one county, the elections official of the county with the largest number of registered voters who will be voting in the election shall set the date for holding the election in consultation with the elections officials of the other

counties.

11242. The election shall be held not less than 88, nor more than 125, days after the issuance of the order, and if a regular or special election is to be held throughout the electoral jurisdiction of the officer sought to be recalled within this time period, the recall election shall be held on the same day, and consolidated with, the regular or special election.

CHAPTER 4. GENERAL PROCEDURES: FINAL STEPS IN THE RECALL

Article 1. General Provisions

11300. No insufficiency in a petition against any officer shall bar the later filing of a new petition against that officer.

11301. If a petition is found by the elections official or, in the case of the recall of a state officer, the Secretary of State, to lack sufficient signatures the proponents whose names are listed on the notice of intention shall be allowed to examine the petition, notwithstanding Section 6253.5 of the Government Code, in order to determine which signatures were disqualified and the reasons therefor.

11302. If a vacancy occurs in an office after a recall petition is filed against the vacating officer, the recall election shall nevertheless proceed. The vacancy shall be filled as provided by law, but any person appointed to fill the vacancy shall hold office only until a successor is selected in accordance with Article 4 (commencing with Section 11360) or Article 5 (commencing with Section 11380), and the successor qualifies for that office.

11303. Any voter who has signed a recall petition shall have his or her signature withdrawn from the petition upon filing a written request therefor with the elections official prior to the day the petition is filed. In the case of the recall of a state officer, the request shall be forwarded to the Secretary of State immediately.

Article 2. Ballots

11320. The following shall appear on the ballots at every recall election, except in the case of a landowner voting district, with respect to each officer sought to be recalled:

(a) The question "Shall [name of officer sought to be recalled be recalled (removed) from the office of [title of office?"

(b) To the right of the foregoing question, the words "Yes" and "No" on separate lines with an enclosed voting space to the right of each.

11321. In addition to the material set forth in Section 11320, the following shall appear on the ballots at a city recall election only:

(a) The question "If the recall prevails shall the (name of legislative body) fill the vacancy or vacancies by appointment or call a special election for that purpose?"

(b) Following the question shall be the words "By appointment" and "By special election" on separate lines with an enclosed voting space to the right of each.

11322. In addition to the material set forth in Section 11320, the following shall appear on ballots at all recall elections, except at a city or a landowner voting district recall election:

(a) The names of the candidates nominated to succeed the officer sought to be recalled shall appear under each recall question.

(b) Following each list of candidates, the ballot shall provide one blank line with a voting space to the right of it for the voter to write in a name not printed on the ballot.

11323. A voter shall indicate, by using the stamp or other marking device to place a mark in the voting space opposite either "Yes" or "No", his vote for or against the recall proposal, respectively.

11324. The official responsible for preparing the ballot shall, at least 10 days prior to the recall election, mail a sample ballot to each registered voter of the electoral jurisdiction of the officer sought to be recalled.

11325. (a) With the sample ballot there shall be mailed for each officer whose recall is sought, a printed copy of the following:

(1) The statement of reasons for recall that appeared on the notice of intent to recall that was filed by the proponents of the recall with the elections official, or in the case of a state officer, with the Secretary of State.

(2) The answer to the statement of reasons for recall that was filed by the officer whose recall is sought with the elections official or, in the case of a state officer, with the Secretary of State, if any answer was filed.

(b) The printed copies of the statement and the answer to that statement shall be mailed with the sample ballot either in a document separate from the sample ballot or in the same document in which the sample ballot appears. Both the statement and answer shall be printed on the same page, or on facing pages of the document, and shall be of equal prominence.

(c) If the recall of more than one officer is sought, the statement and answer for each officer shall be printed together and shall be clearly distinguished from those of any other officer.

11326. If a municipal recall election involves the possible recall of a majority of the legislative body, there shall be included with the mailing of the sample ballot a notice informing each voter that, if a majority of the legislative body is in fact recalled, a special election shall be held regardless of the results of the vote on the question set forth in Section 11321.

11327. Except in the case of a city recall election, an officer whose recall is being sought may file a candidate's statement with the elections official in accordance with Section 13307, to be sent to each voter, together with the sample ballot.

Article 3. Elections in General

11328. A recall election shall be conducted, canvassed, and the results declared in substantially the manner provided by law for a regular election for the office.

11329. One election is sufficient for the recall of several officers.

Article 4. City Recall Elections

11360. This article shall apply only to the recall of city officers.

11361. If one-half or more of the votes at a recall election are "No", the officer sought to be recalled shall continue in office.

11362. If a majority of the votes on a recall proposal are "Yes", the office shall be deemed vacant.

11363. (a) If the recall prevails and a majority of those voting on the question of filling the vacancy favor a special election for that purpose, the legislative body shall at its next regular meeting call an election to be held to fill the vacancy not less than 114 nor more than 129 days after the date of the order. If a regular municipal election is to occur not more than 144 nor less than 114 days from the date of canvassing the vote, the legislative body may provide for filling the vacancy at that regular municipal election instead of at a special election. If a special election is not favored by a majority of the voters, the legislative body shall at once fill the vacancy by appointment. In either case, the person elected or appointed shall hold office for the unexpired term of the former incumbent.

(b) The recalled officer may not be a candidate to succeed himself or herself at a special election held to fill the vacancy created by his or her recall or any other vacancy created by another recalled officer on the same governing board, nor may he or she be appointed by the legislative body to fill the vacancy created by his or her recall.

11364. If a majority of the legislative body is recalled at the same election, the members recalled shall retain their offices until their successors are elected and qualified. Immediately after the canvass of votes of a recall election at which a majority of the legislative body is recalled, and regardless of the results of the vote on the question set forth in Section 11321, the elections official shall call a special election to fill the vacancies arising as a result of the recall election, which special election shall be held not less than 114 nor more than 129 days after the canvass of votes of the election at which they were recalled. The duties of the governing body of the city with respect to the holding of the special election shall be performed by the elections official. The vote of the special election shall be canvassed by the elections official, who shall declare the result. If the elections official has also been recalled, then the board of supervisors shall perform the elections official's duties.

Article 5. Recall Elections, Other than City Recall

11380. This article shall apply to the recall of public officers other than city officers.

11381. Nominations of candidates to succeed the recalled officer shall be made in the manner prescribed for nominating a candidate to that office in a regular election insofar as that procedure is consistent with this article. The following exceptions shall be made to that procedure:

(a) The nomination papers and the declaration of candidacy shall, in each case, be filed no less than 68 days prior to the date of the election and not before the day the order of the election is issued.

(b) If the elections official is required to certify to the governing board the names of the candidates to be placed on the ballot, that shall be done by the 64th day prior to the election.

(c) No person whose recall is being sought may be a candidate to succeed himself or herself at a recall election nor to succeed any other member of the same governing board whose recall is being sought at the same election.

11382. No vote cast in the recall election shall be counted for any candidate unless the voter also voted for or against the recall of the officer sought to be recalled.

11383. If one-half or more of the votes at a recall election are "No", the officer sought to be recalled shall continue in office.

11384. If a majority of the votes on a recall proposal are "Yes", the officer sought to be recalled shall be removed from office upon the qualification of his successor.

11385. If at a recall election an officer is recalled, the candidate receiving the highest number of votes for the office shall be declared elected for the unexpired term of the recalled officer.

11386. If the candidate who received the highest number of votes fails to qualify within 10 days after receiving his or her certificate of election, the office to which he or she was elected shall be vacant, and shall be filled according to law.

DIVISION 12. PREELECTION PROCEDURES

CHAPTER 1. PROCLAMATIONS AND ELECTION ORDERS

12000. For each statewide election, the Governor shall issue a proclamation calling the election. The proclamation shall be issued by the Governor under his or her hand and the Great Seal of the state no later than the 148th day prior to the election and shall state the time of the election and the offices, if any, to be filled. Copies of the proclamation shall be transmitted by the Governor to the boards of supervisors of the counties.

12001. For a special local election, the governing body of the local agency shall issue a proclamation or a resolution calling the election.

CHAPTER 2. PREELECTION NOTICES

12100. Statements of the number of voters transmitted by the county elections officials to the Secretary of State shall be in substantially the following form:

STATEMENT OF REGISTRATION

To the Secretary of State
Sacramento, California

I, _____, County Elections Official of the County of _____, do hereby certify that the number of voters, in this county on the _____ day of _____, 19__, under the political affiliations hereinafter stated, is as follows:

(Name)	(Number)

That the number of electors registered in this county on that date who declined to declare a party affiliation was _____.

That the total number of electors registered in this county on that date was _____.

That the number of voters in each city in the county on that date, under the political affiliations hereinafter stated, is as follows:

(_____ Party)

(Name of city)	(Number)

(_____ Party)

(Name of city)	(Number)

That the number of voters in each Assembly district in the county on that date, under the political affiliations hereinafter stated, is as follows:

(_____ Party)

(District)	(Number)

That the number of voters in each senatorial district in the county on that date, under the political affiliations hereinafter stated, is as follows:

(_____ Party)

(District)	(Number)

(_____ Party)

(District)	(Number)

That the number of voters in each congressional district in the county on that date, under the political affiliations hereinafter stated, is as follows:

(_____ Party)

(District)	(Number)

(_____ Party)

(District)	(Number)

That the number of voters in each supervisorial district in the county on that date, under the political affiliations hereinafter stated, is as follows:

(_____ Party)

(District)	(Number)

(_____ Party)

(District)	(Number)

Dated this _____ day of _____, 19__.

_____
County clerk

(SEAL) By _____

12101. At least 104 days before the time of holding the direct primary, the Secretary of State shall prepare and transmit to each county elections official a notice in writing designating all the offices, except those of county officers and judges of inferior courts, for which candidates are to be nominated at the primary, together with the names of parties qualified to participate in the primary.

12102. The notice designating the offices for which candidates are to be nominated shall be in substantially the following form:

NOTICE BY SECRETARY OF STATE OF OFFICES FOR WHICH CANDIDATES ARE TO BE NOMINATED AT THE DIRECT PRIMARY AND NAMES OF POLITICAL PARTIES QUALIFIED TO PARTICIPATE

Secretary of State
Sacramento, _____, 19__

To the County Elections Official of the County of _____:

Notice is hereby given that the offices for which candidates are to be nominated at the primary election to be held on the _____ day of _____, 19__, together with the names of the political parties qualified to participate in the election, are as follows:

STATE AND DISTRICT OFFICES

_____
_____
_____

CONGRESSIONAL OFFICES

LEGISLATIVE OFFICES

That the names of the political parties qualified to participate in this election for nomination of candidates for each of the above-mentioned offices are as follows:

Notice is also hereby given that at the primary election candidates are to be nominated for the following offices:

JUDICIAL OFFICES

SUPERINTENDENT OF PUBLIC INSTRUCTION

Notice is also hereby given that at the primary election, in the county first above mentioned, candidates are to be nominated for any county offices or inferior court offices to which candidates are to be elected at the ensuing general election;

And notice is also hereby given that at the primary election there shall be elected in each county a county central committee for each political party above named pursuant to Division 7 (commencing with Section 7000).

(SEAL) Secretary of State

12103. The county elections official shall also publish the list of the polling places designated for each election precinct, followed by the list of names of precinct board members appointed. The list of names of precinct board members need not be published in precinct order, at the discretion of the county elections official. Publication shall be pursuant to Section 6061 of the Government Code in the county where the election is to be held and in any newspaper of general circulation designated by the county elections official.

12104. (a) In each county where the county elections official determines that the public interest, convenience, and necessity require the local publication of the list of the names of precinct board members appointed and polling places designated for each election precinct in order to afford adequate notice of this subject to the electorate, publication of this list shall be made as provided in this section and Section 12105.

(b) After making a determination pursuant to subdivision (a), the county elections official shall divide and distribute the list of precinct board members and polling places and cause the same to be published in newspapers of general circulation published in different places in the county as hereinafter provided, the publication to be at least one week before the day of election. The list of precinct board members appointed need not be in precinct order for purposes of publication, at the discretion of the county elections official.

(c) Divisions of the list of names of the precinct board members and polling places may be published in that daily newspaper of general circulation published or circulated in one or more cities in the county, with the exception of the county seat, which it is determined will give to the electorate in each city adequate notice of the election. If there is no daily newspaper, publication may be made in a semiweekly newspaper, a triweekly newspaper, or a weekly newspaper of general circulation which it is determined will give the electorate in the city adequate notice of the election.

(d) The list of names of the precinct board members appointed and polling places designated for various portions of the unincorporated area of the county and of the county seat may be published in those daily, semiweekly, triweekly, or weekly newspapers of general circulation published or circulated within the various portions of the unincorporated area and the county seat, deemed by the county elections official to be those newspapers which will give adequate notice of the election to the voters of the respective portions of the unincorporated area and the county seat.

12105. (a) The county elections official shall let the contracts for publication, pursuant to Section 12104, of the list of the names of precinct board members appointed and polling places designated for each election precinct, and shall determine the rate to be paid for the publication of the list or any portion of the list.

(b) The publication rate shall be based on a common denominator of measurement for all newspapers and may be graduated according to circulation.

(c) Contracts for the publication shall include the publication of the proper portion of the list of precinct board members and polling places and all other items relating to that portion required by law to be published.

12106. In any case where this chapter requires the publication or distribution of a list of the names of precinct board members, or a portion of the list, the officers charged with the duty of publication shall ascertain the name of the political party, if any, with which each

precinct board member is affiliated, as shown in the affidavit of registration of that person. When the list is published or distributed, there shall be printed the name of the board member's party or an abbreviation of the name to the right of the name, or immediately below the name, of each precinct board member. If a precinct board member is not affiliated with a political party, the words "No party," "Nonpartisan," or "Decline to state" shall be printed in place of the party name.

12107. Whenever the ballots at any election or from any precincts are to be tallied at a central place and not at the precincts, the elections official or secretary of the jurisdiction conducting the election shall specify the public place to be used and give notice thereof as follows:

(a) By at least one publication in a newspaper of general circulation published in the jurisdiction where the election is to be held, provided that the publication is made at least 10 days before the day of the election.

(b) If a newspaper of general circulation is not published in that jurisdiction, then by prominently posting the notice in the office of the elections official for at least 10 days before the day of the election.

12108. All municipal elections, including elections to fill public offices, elections on measures, and initiative, referendum, and recall elections, shall be held and conducted in accordance with this chapter, and, except where the charter, statute, or code under which a municipal election is held prescribes the method of giving notice of the election, the notices provided in this chapter shall be given.

12109. (a) Not earlier than the 127th nor later than the 113th day before any municipal election to fill offices, the city elections official shall publish a notice of the election in the city pursuant to Section 6061 of the Government Code. The notice shall be headed "Notice of Election," and shall contain a statement of:

(1) The time of the election.

(2) The offices to be filled, specifying full term or short term, as the case may be.

(b) With respect to a special election to fill a vacancy in office, unless the city has enacted an ordinance as referred to in subdivision (d) of Section 10229, and the ordinance does not allow for appointment to fill the vacancy and requires the vacancy to be filled in the special election, the notice shall also state that if no one or only one person is nominated for an elected office, appointment to the elective office may be made as prescribed by Section 10229.

(c) If there is no newspaper of general circulation published and circulated in the city, the notice shall be typewritten and copies shall be posted conspicuously within the time prescribed in at least three public places in the city.

12110. The notice of the municipal election shall be substantially in the following form:

NOTICE OF ELECTION

Notice is hereby given that a _____ (general or special) municipal election will be held in the _____ of _____, on _____, the _____ day of _____, 19__, for the following officers: (name them).

The polls will be open between the hours of _____m. and _____m.

_____

City Elections Official

Dated, _____, _____.

12111. Sample ballots and polling places notices shall be printed and mailed to each voter for any municipal election within the time provided by Section 13303.

12112. In case of a municipal election to fill offices, the city elections official shall publish a list of the names of the nominees, in the order in which they appear on the ballot, and the respective offices for which they have been nominated. Publication shall be in the city and pursuant to Section 6066 of the Government Code. If there is no newspaper published and circulated in the city, the notice shall be typewritten and copies shall be posted conspicuously within the time prescribed in at least three public places in the city. This list shall be headed, "Nominees for Public Office," in conspicuous type, and shall be substantially in the following form:

NOMINEES FOR PUBLIC OFFICE

Notice is hereby given that the following persons have been nominated for the offices hereinafter mentioned to be filled at the General Municipal Election to be held in the _____ of _____ on _____ the _____ day of _____, 19__.

(Here follow with the list of nominees.)

Dated, _____

_____

City Elections Official

12113. Not later than 20 days prior to any municipal election, the city elections official shall publish the list of the polling places designated for each election precinct. This list shall be followed by the list of names of election officers appointed. The list of names of election officers need not be published in precinct order, at the discretion of the city elections official. Publication shall be in the city and pursuant to Section 6061 of the Government Code. If there is no newspaper of general circulation published and circulated in the city, the list shall be typewritten and copies shall be posted conspicuously within the time prescribed in at least three public places in the city. The list shall be headed "Election Officers and Polling Places" in conspicuous type and shall be substantially in the

following form:

ELECTION OFFICERS AND POLLING PLACES

Notice is hereby given that at the _____ (general or special) municipal election to be held in the City of _____ on Tuesday, the _____ day of _____, 19__, there shall be _____ (_____) voting precincts consisting (of consolidations) of the regular election precincts in the City of _____ established for the holding of state and county elections; that the polling places for the respective precincts shall be the places hereinafter designated; and that the persons hereinafter named have been appointed officers of election for their respective voting precincts.

Voting Precinct 1, comprising regular election precinct number (or numbers).

_____ Polling Place: (state place)

Voting Precinct 2, comprising regular election precinct number (or numbers).

_____ Polling Places: (state place)

Officer _____
(name)

Officer _____
(name)

12114. (a) In case of a municipal election on any measure, the city elections official shall publish a synopsis of the measure in the city pursuant to Section 6061 of the Government Code. If there is no newspaper of general circulation published and circulated in the city, the notice shall be typewritten and copies shall be posted conspicuously within the time prescribed in at least three public places in the city. The notice shall be headed "Measure To Be Voted On" in conspicuous type and shall be substantially in the following form:

MEASURE TO BE VOTED ON

Notice is hereby given that the following measure is to be voted on at the _____ (general or special) municipal election to be held in the City of _____, on Tuesday, the _____ day of _____, 19__.

(Synopsis of measure or measures)

Dated _____

_____
City Elections Official of the
City of _____

(b) The city elections official shall consolidate the notice of election and the notice of measure to be voted on into one notice if the measure was placed on the ballot before the notice of election is published pursuant to Section 12109.

12115. (a) At least 90 days, and not more than 120 days, before the day fixed for the general district election, the elections official of the principal county shall publish a notice of the election once in a newspaper of general circulation published in the district or, if no such newspaper is published in the district, in a newspaper having general circulation in the district published in any affected county in the district. The notice shall contain the date of the general district election, name the offices for which candidates may file, and state the qualifications required by the principal act for each office. The notice shall state the location where official declarations of candidacy for eligible candidates desiring to file for any of the elective offices may be obtained, the office in which completed declarations of candidacy are required to be filed, and the date and time after which no declarations of candidacy may be accepted for filing. The notice shall state that appointment to each elective office will be made as prescribed by Section 10515 in the event there are no nominees or an insufficient number of nominees for the office and a petition for an election is not filed with the elections official within the time period prescribed by Section 10515.

(b) In addition to the requirements of subdivision (a), the county elections official shall, by a general press release, set forth all of the following:

(1) The elective offices of the district to be filled at the ensuing district election.

(2) A telephone number that voters of the district may utilize in order to obtain information regarding filing for the elective district office.

12116. For each district, the county elections official immediately shall deliver a copy of all published notices to the district secretary. Each notice shall be posted in the district office.

12117. (a) The county elections official shall mail a sample ballot, postage prepaid, to each voter not more than 40 or less than 10 days before the general district election. He or she shall also mail a notice or notices enclosed with the sample ballot. The notice shall contain all of the following:

(1) The date and hours of the next general district election;

(2) The address of the polling place at which the voter is to vote.

(b) The elections official may mail separate notices for each district participating in the election or consolidate the information for two or more districts in one notice.

12118. In the case of any school district or community college district election called or conducted under this code or the Education Code, except as provided in this section, the elections official of the county in which the majority of the territory of the district is located shall mail, within the same number of days

provided in Section 12117 for the mailing of sample ballots, all of the following to each registered voter residing within the district:

(a) A sample ballot.

(b) A notice card designating the polling place and time of the election.

(c) An application for an absentee ballot in accordance with Section 3006.

(d) A notice of the voter's right to an absentee ballot in accordance with Section 13315.

CHAPTER 3. PRECINCTS

Article 1. General Provisions

12200. This chapter applies to all counties.

Article 2. Precinct Formation

12220. The county elections official shall divide the county into election precincts and prepare detail maps or exterior descriptions thereof, or both, and as many copies as the elections official may determine. The county surveyor shall, if so requested, provide assistance to the elections official in the preparation of these maps or exterior descriptions.

12221. In any order establishing precincts, their boundaries shall be defined by reference to exterior descriptions or delineation thereof on a map or maps.

12222. (a) No precinct shall be established so that its boundary crosses the boundary of any supervisorial district, congressional district, senatorial district, Assembly district, board of equalization district, judicial district, incorporated city, ward, or city council district. To the extent possible, without subjecting the voter to significant inconvenience, precinct boundaries should not cross census tract or enumeration district lines.

(b) If, at any election, any precinct contains an insufficient number of qualified persons to make up a precinct board, the precinct may be consolidated with an adjoining precinct.

12223. Whenever any county is divided into election precincts or whenever the boundaries of established precincts are changed or new precincts created, the precinct boundaries shall be fixed in a manner so that the number of registered voters in each precinct does not exceed 250 on the 75th day prior to the day of election, unless otherwise provided by law.

12224. Whenever, in a statewide primary or general election, the ballots are to be counted at a central place, either manually or by automatic mechanical or electrical devices, or whenever mechanical voting devices are used to mark ballots at the polling places, election precincts may be consolidated or formed, but no precinct shall be formed or consolidated to contain more than 1,000 voters.

12225. In counties using punchcard voting systems, the officer charged with the duty of creating precincts may combine, rearrange, or enlarge the precincts, provided no direct primary or general election precinct shall include more than 1,000 voters.

12226. (a) When more than 250 voters are registered in a precinct, the voters of the precinct may be divided into two or more groups and one precinct board appointed to serve each group. The board or officer charged with the duty of conducting the election shall divide the voters into two or more groups as nearly equal in number as possible. When the voters of a precinct are so divided, there may be one or more polling places, but there shall be a ballot box for and a set of returns from each group.

(b) The board or officer charged with the duty of conducting the election, in determining whether or not there are 250 voters in the precinct for the purpose of this section, shall not base its determination on an estimate of how many voters in the precinct will vote. The determination shall be made solely on registrations within the precinct.

12227. In counties where voting machines are to be used, the county elections official may, at any time on or before the 30th day preceding any election, create, unite, divide, or combine the election precincts.

12228. If, through unforeseen circumstances, it has not been determined until less than 30 days before the election that there are more than 250 voters to a precinct, the board or officer charged with conducting the election may divide the precinct as provided in this code.

12229. Whenever a precinct is entirely owned or controlled by the United States, and no permission is granted by the federal authorities for the establishment of precinct boards and polling places, precinct boards need not be appointed nor polling places designated, but in lieu thereof the elections official shall, not less than 29 days prior to election day, furnish an application blank for an absent voter ballot to each voter qualified to vote at the election, together with a statement that there will be no polling place within the precinct, and, if the voter desires to vote at the election, application for an absent voter ballot must be made not less than seven days before the election. The order of the elections official shall state that in precincts where no precinct boards are appointed nor polling places designated, the qualified voters of these precincts, if they wish to vote, shall vote by absent voter ballots.

Article 3. Precinct Consolidations

12240. At any election to fill a vacancy in the office of State Senator, Member of the Assembly, or Representative in Congress in a county which has not adopted a voting system, as defined in Section 362, for use in statewide elections, there shall not be more than three precincts consolidated and they shall be formed to contain not more

than 600 voters. However, in no event may a consolidated precinct in this election exceed 1,000 voters.

12241. The election board conducting local, special, or consolidated elections, or statewide elections other than the direct primary, presidential primary, or general election, may, for the purpose of the election, divide the territory within which the election is to be held into special election or consolidated election precincts by consolidating existing precincts, or otherwise, subject to Section 12222, and may change and alter the precincts for such elections as often as occasion requires. Not more than six existing precincts may be consolidated into one special election or consolidated election precinct. The polling place used for a consolidated precinct shall be located within the boundaries of the consolidated precinct.

Article 4. Precinct Boundary Changes

12260. (a) The county elections official may change or alter any precinct boundaries.

(b) If any changes or alterations are made the county elections official shall prepare new detail maps or exterior descriptions thereof, or both. The county surveyor shall, if so requested, provide assistance to the elections official in the preparation of the detail maps or exterior descriptions.

(c) The county elections official shall provide, at the request of any interested person, the following information:

(1) All precinct boundary changes and alterations made within the current calendar year and the immediately preceding two calendar years.

(2) All precinct consolidations made within the current calendar year and the immediately preceding two calendar years, specifying the election or elections in which the consolidations were made.

(d) The information provided to persons pursuant to subdivision (c) shall include the precinct numbers before the change or alteration and then a description, including precinct numbers, of the changes or alterations. The description may include maps.

(e) The information described in subdivisions (c) and (d) shall be compiled for each calendar year and shall be kept and filed so as to be accessible to any person upon request.

(f) The county elections official may charge a person requesting information the amount needed to reimburse the county for the actual expenses incurred in providing copies of the information required under this section.

(g) The duties and responsibilities imposed on the county elections official shall, with respect to a municipal election, be performed by the city elections official if the city conducts the municipal election and establishes its precincts.

12261. The boundaries of precincts for the general election shall be the same as those established for the direct primary election,

except to the extent necessary to add or subtract precincts as the result of population change or to divide precincts containing more than 250 voters or to change precinct boundaries due to supervisorial, judicial, or council district boundary changes, incorporation of new cities, annexations to cities, or exclusions by cities. Changes of precinct boundaries may also be made when consolidating precincts.

12262. Precinct boundary changes occurring less than 88 days before an election shall not be effective for purposes of that election. Voters residing within an area affected by a boundary change, occurring within 88 days before an election, shall vote at the ensuing election in all respects as if no boundary change had occurred. However, any district that holds a general district election on the first Tuesday after the first Monday in November of an odd-numbered year shall complete any boundary change not less than 130 days prior to the election in order to comply with Section 10522.

Article 5. Polling Places

12280. When designating polling places, the county elections official shall undertake necessary measures in the locating of polling places to ensure that polling places meet the guidelines promulgated by the Secretary of State for accessibility by the physically handicapped.

12281. (a) If, for any valid reason, the polling place designated for any precinct cannot be used, and this fact is known in sufficient time to allow a mailed notice to be received before the election, the clerk may designate another polling place and shall mail, postage prepaid, to each voter in the precinct a notice showing this change.

(b) If the information is not known in sufficient time for a mailing pursuant to subdivision (a), the precinct board acting for that precinct, on the day of election, shall designate another polling place as near the place first designated as possible, post notice on or near the place first designated, and conduct the election at the new location.

12282. Property exempted from taxation pursuant to Section 214 of the Revenue and Taxation Code shall be made available free of charge to the county elections official for use as a polling place pursuant to Section 213.5 of the Revenue and Taxation Code.

12283. (a) The governing body having jurisdiction over school buildings or other public buildings may authorize the use of its buildings for polling places on any election day, and may also authorize the use of its buildings, without cost, for the storage of voting machines and other vote-tabulating devices. However, if a city or county elections official specifically requests the use of a school building for polling places on an election day, the governing body having jurisdiction over the particular school building shall allow its use for the purpose requested.

(b) Once a governing body has approved the use of a school

building as a polling place, the governing body shall instruct the school administrator to provide the elections official a site with an adequate amount of space that will allow the precinct board to perform its duties in a manner that will not impede, interfere, or interrupt the normal process of voting.

(c) The school administrator shall also make a reasonable effort to ensure that the site is accessible to the handicapped.

12284. Upon request of the city or county elections official, state-owned buildings, parking lots, and other facilities shall be made available free of charge for use as polling places, except that the Department of General Services may exclude from use as polling places state facilities at which access to confidential materials cannot be reasonably safeguarded, which are inaccessible to the public, the use of which would disrupt state business, or which are otherwise impractical for use as polling places.

12285. A mobilehome may be used as a polling place if the county elections official determines that no other facilities are available for the convenient exercise of voting rights by mobilehome park residents and the mobilehome is designated as a polling place by the county elections official pursuant to Section 12326. No rental agreement shall prohibit the use of a mobilehome for those purposes.

12286. (a) At least 29 days prior to the day fixed for the general district election, the county elections official shall do all of the following:

(1) Establish a convenient number of election precincts within the affected county.

(2) Define the precinct boundaries.

(3) Designate a polling place for each precinct.

(4) Appoint for each precinct one inspector, one or more judges, and one or more elections officials, who shall constitute a precinct board for the precinct. Each precinct board member shall be a voter of the precinct for which the member is appointed or a voter of a precinct situated in the same general area.

(5) Notify the members of each precinct board of their appointment and the location of the precinct and polling place where they will serve.

(b) The county elections official, in establishing precincts and defining their boundaries, shall, to the extent practicable, provide for a single polling place where a voter entitled to vote in more than one district may cast all of his or her ballots.

(c) In a landowner voting district, the county elections official shall designate the polling place at which a nonresident landowner shall vote.

CHAPTER 4. PRECINCT BOARDS

Article 1. General Provisions

12300. Any voter may file an application with the elections

official for the position of precinct board member. The elections official may require the application be made on specific forms supplied by the elections official.

12301. The persons appointed to serve as election officers for each precinct at any election shall constitute the precinct board for that precinct.

12302. Each member of a precinct board shall be a voter of the precinct for which the member is appointed or a voter of a precinct situated in the same general area, except that county employees used as poll workers may reside outside of the precinct or the county. The member shall serve only in the precinct for which appointment is received.

12303. (a) No person who cannot read or write the English language is eligible to act as a member of any precinct board.

(b) It is the intent of the Legislature that non-English-speaking citizens, like all other citizens, should be encouraged to vote. Therefore, appropriate efforts should be made to minimize obstacles to voting by citizens who lack sufficient skill in English to vote without assistance.

(c) Where the county elections official finds that citizens described in subdivision (b) approximate 3 percent or more of the voting-age residents of a precinct, or in the event that interested citizens or organizations provided information which the county elections official believes indicates a need for voting assistance for qualified citizens described in subdivision (b), the county elections official shall make reasonable efforts to recruit election officials who are fluent in a language used by citizens described in subdivision (b) and in English. This recruitment shall be conducted through the cooperation of interested citizens and organizations and through voluntarily donated public service notices in the media, including newspapers, radio, and television, particularly those media that serve the non-English-speaking citizens described in subdivision (b).

(d) At least 14 days before an election, the elections official shall prepare and make available to the public a list of the precincts to which officials were appointed pursuant to this section, and the language or languages other than English in which they will provide assistance.

12304. The composition of the precinct board shall be determined by the elections official based on election precinct size. The precinct board shall consist of a minimum of one inspector and two clerks. Additional clerk positions may be allocated in proportion to the number of registered voters within the precinct.

12305. (a) The elections official may, not less than 30 days prior to any election, find that a different arrangement of election officers than is prescribed in this chapter will be more suitable and, in this case, may provide that the precinct board shall consist of one inspector and three clerks; or one inspector, one assistant inspector, and two clerks; or one inspector and four clerks. If the elections official provides that the precinct board shall consist of one inspector,

one assistant inspector, and two clerks, the precinct board shall be implemented by four clerks, who shall commence serving upon the close of the polls and shall, together with the inspector, assistant inspector, and two clerks, count the votes. The clerks shall be appointed, qualified and sworn as are other members of the precinct board.

(b) The elections official may, in order to accommodate the needs of the precinct election officers, allow an election officer to serve less than a full shift at the polling place by dividing time with another election officer or officers, at the same polling place, if the requirements of the precinct will be met. More than one election officer serving portions of the same shift shall be counted as one election officer for purposes of subdivision (a) and shall meet all other applicable qualifications set forth in this chapter.

12306. The county elections official of any county, in appointing members of the several precinct boards to serve in the direct primary and general elections under the provisions of this code, shall permit the county central committee of each qualified political party to nominate for appointment to the precinct board a member of that party who is registered and resident in that precinct. Nomination pursuant to this section shall be made in writing to the county elections official not less than 90 days before the election for which the nomination is made. In making appointments to precinct boards from nominations submitted by political parties, the county elections official shall give preference to the nominee of any qualified political party with at least 10 percent of the registered voters in the precinct for which the nomination is made.

12307. Upon filing the list of names and addresses of those who have been appointed members of the precinct board, the elections official shall immediately mail or deliver to each voter so appointed, a notice stating the appointment and the position to which assigned, the penalty for failure to serve, and any other matter that the elections official determines.

12308. In any case where a precinct board may be appointed, the appointing authority may also appoint a substitutive counting board at the time when, and in the manner that, the precinct board is appointed, and the members shall have the same qualifications. In the event of its appointment, the substitutive board shall take over, immediately after the closing of the polls, the powers, rights, and duties of, and thereafter perform all those functions relating to counting and declaring which, under this code, devolve upon precinct boards. The duties of the precinct board officiating prior to the closing of the polls shall then cease. No member of the precinct board shall be a member of the substitutive board in the same precinct. The provisions of this code relating to precinct boards are applicable to substitutive boards, except members of the substitutive board need not reside in any particular precinct or area.

12309. (a) Following the appointment of members of precinct boards, the elections official shall instruct inspectors so appointed

concerning their duties in connection with the conduct of the election, which instruction shall include all of the following:

(1) A summary of the rights of voters.

(2) The lawful grounds for challenge.

(3) The proper tabulating procedures.

(4) Specific directions that the polls shall be kept open to the public during voting hours and throughout the period required for the tabulation of the vote.

(5) A digest of election laws.

(6) Any other subjects that shall assist the inspectors in carrying out their duties.

(b) No person shall serve as an inspector of a precinct board at the election unless instruction has been received in accordance with this section, except that in the case of the emergency disability of a regular inspector, substitute inspectors shall be given any instruction found necessary by the elections official.

(c) At the request of the elections official, the legislative body may contract with any qualified person or organization for purposes of instructing inspectors in accordance with this section.

12310. Each member of a precinct board shall receive compensation for services a sum fixed by the board of supervisors of the county. This sum shall be paid out of the treasury of the county in which the election is held. The inspector may receive more compensation than the other members of the precinct board. The additional compensation to the inspector is for services rendered in securing precinct board members and other duties which may be directed by the elections official.

12311. No public agency shall be required as the result of any assignment or transfer to pay the compensation of an election officer for services to any person other than the election officer to whom the compensation is due.

12312. No person shall be suspended or discharged from any service or employment because of absence while serving as an election officer on election day.

12313. If any member of a precinct board does not appear at the opening of the polls on the morning of an election, those voters present, including members of the board, shall appoint a voter to fill the vacancy. If none of the members appointed appears at that time, the voters of the precinct present at that time may appoint a board.

12314. The inspector shall appoint a judge or clerk to replace any judge or clerk who ceases to act or becomes incapacitated during the progress of an election.

12315. If the inspector ceases to act, a majority of the remaining members of the precinct board may appoint a substitute.

12316. In constituting precinct boards, the elections official may excuse persons appointed whom the elections official is satisfied ought to be excused. Substitutions may be made when any person appointed is excused or found disqualified or incompetent, until a final or amended list of election officers is sent to the inspector for

that precinct.

12317. The amended list of officers appointed in any precinct shall be the final order of appointment for that precinct.

12318. (a) Following the notification of the precinct board members appointed pursuant to Section 12307, the county elections official shall mail or deliver to the county central committee of each qualified political party a copy of the list, and the elections official may notify the same committee of any substitute appointments that are made until the time the notice of final order is sent to the precinct inspector. This list shall have the names of precinct board members in precinct order.

(b) In addition, the elections official shall make available a copy of the list prescribed in subdivision (a) to any person requesting a copy. Any person requesting a copy of the list shall sign a roster specifying his or her name, telephone number, and address, and shall provide the elections official with adequate personal identification.

12319. The elections official shall immediately mail or deliver to each person appointed as inspector a notice showing the precinct polling place and the voters appointed to serve as election officers in that precinct. The notice shall be substantially in the following form:

Office of the County Elections Official
City Elections Official, or Secretary.
County of _____.

NOTICE TO INSPECTOR

To _____, inspector for _____ Precinct

The polling place for the _____ Precinct at the election to be held on _____ will be _____ and the precinct board for that precinct will be composed of you and the following named persons:

Position	Name	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____

You, as inspector, before the polls are opened shall see that each of the other persons serving on the board has signed the declaration required by law and which will be found set forth in the roster and that no person is permitted to act as a precinct officer unless that person has signed the declaration and is otherwise qualified to act as a precinct officer. You shall also see that each member of the board signs the tally sheet following the tally of the votes.

_____

County Clerk, City Clerk, Secretary
(or other official).

12320. No person is eligible to act as an election officer until the

declaration required by Section 12321 has been signed.

12321. (a) (1) Each inspector shall sign a declaration of intention to faithfully discharge the duties of inspector and shall return it to the county elections official at least 15 days before election day. If the inspector fails or refuses to sign and file the declaration, the county elections official shall appoint a substitute who shall make and file the application.

(2) The declaration of an inspector and each of the declarations of other members of the precinct board provided for in this article shall be signed in the presence of a witness and shall be as binding on the signer as would be an oath of office.

(3) The declaration of an inspector shall be in substantially the following form:

State of California }
County of _____ } ss.

I do hereby solemnly declare that I will support the Constitution of the United States and the Constitution of the State of California, and that I will to the best of my ability, faithfully discharge the duties of inspector for precinct _____ for the election to be held on _____ 19__.

_____

Signed in the presence of _____
(Signature)

on _____ 19__.

(b) On the day of election, and before entering upon the performance of duties, each of the precinct board members, other than the inspector, shall sign a declaration of intention to faithfully discharge the duties of an election officer. The declaration shall be signed before any member of the precinct board. The form for each of the declarations shall be provided in the roster for the precinct. The declaration of the precinct board member shall be in substantially the following form:

State of California
County of _____ } ss.

I do hereby solemnly declare that I will support the Constitution of the United States and the Constitution of the State of California, and that I will to the best of my ability, faithfully discharge the duties of precinct board member for precinct _____ for the election to be held on _____ 19__.

_____

Signed in the presence of _____
(Signature)

on _____ 19__.

(c) Any precinct board member may administer and certify oaths required to be administered during the progress of an election. This authorization shall include the power to give any type of oath required of a public employee. There shall be no fee or charge for administering an oath.

(d) In lieu of signing and returning the declaration of the inspector, as provided in this chapter, the county elections official may require the inspector to sign the declaration on the day of election and before entering upon the performance of these duties.

12322. The election board conducting the elections of any city shall appoint a precinct board for each local, special, or consolidated election precinct, to consist of one inspector, one judge, and two clerks for each local, special, or consolidated election held within that city. The election board conducting the elections in any county shall appoint a precinct board to consist of one inspector, one judge, and two clerks for every local, special, or consolidated election not held exclusively within one or more cities. However, in any consolidated election not consolidated with a statewide direct primary or general election, in which an electronic, electromechanical, or punchcard voting system is used for counting the ballots, the officer in charge may provide that the precinct board shall be appointed pursuant to Section 12355. The members of the precinct board shall apportion among themselves the work required in the conduct of the election within their respective election precincts.

12323. At any municipal election held under a freeholders' charter, the election board conducting the election may, by majority consent, appoint, for each election precinct, a precinct board, to consist of one inspector, one judge, and two clerks.

12324. The members of the precinct boards provided for in Sections 12322 and 12323 shall be appointed and shall act as provided in this chapter.

12325. (a) If the affidavit of registration of a voter is erroneously placed in a precinct, the voter may apply to the county elections official for a certificate showing the record of registration. The county elections official shall give the voter the certificate on or before election day. Upon presentation of this certificate to the

precinct board of the proper precinct, the board shall permit the voter to vote. If the voter does not obtain the certificate provided for in this section, and votes in the precinct into which the affidavit of registration has been erroneously placed by the county elections official, and the election is contested, the voter's vote shall not be rejected for those candidates and on those measures with respect to which the voter would have been entitled to vote had the voter voted in the proper precinct, and no inquiry shall be made as to how the voter voted for those candidates or on those measures.

(b) No voter who receives a certificate of registration under this section shall be charged a fee by the county elections official.

12326. The county elections official, not less than 29 days prior to an election, shall issue an order appointing the members of the several precinct boards and designating the polling places.

12327. (a) If the precinct board members for any precinct have not been appointed or cannot serve, or the polling place has not been designated prior to an election, the county elections official shall, by written order, immediately appoint the precinct board members or designate the polling place for the precinct, as the case may require, and shall notify each precinct board member of the appointment.

(b) If, at this time, the county elections official cannot make suitable arrangements for a polling place in any precinct in which none has been designated, the elections official may designate a polling place in any contiguous precinct. Any precinct board member serving in this polling place shall be regarded as serving in the proper precinct within the meaning of this chapter.

12328. In all respects not otherwise provided for in this chapter, municipal elections shall be held and conducted in accordance with the provisions of this code governing elections generally, so far as they may be applicable.

12329. The voting precincts for the municipal election may consist of either the regular election precincts established for holding state or county elections or a consolidation of any or all of the regular election precincts last established. If any election at which is submitted the proposition of incurring indebtedness, or the issuance of bonds, or the determination of any measure authorized by law to be submitted to vote of the people of the city is consolidated with any regular state or county election, the precincts for the municipal election shall be the same as those established for the regular election.

12330. (a) The governing body of the city shall appoint one inspector, one judge, and two clerks as election officers for each precinct for each municipal election. The persons appointed shall have charge of the election in and for the regular or consolidated precinct for which they have been appointed. The governing body may advertise for election officers, or it may appoint them from the register of applicants for these positions on file with the county elections official, or from the register of applicants for these positions on file with the city elections official, in the event that the local

governing body, by resolution, determines that a local register shall be so maintained.

(b) If a resolution is adopted pursuant to subdivision (a), the city elections official shall prepare application blanks and shall maintain a register in substantially the same manner as kept by the county elections official as to elections generally. Other things being equal, preference in the appointment of precinct board members shall be given for ability and previous experience. The precinct board members shall receive compensation fixed by the governing body.

Article 2. Elections Using Voting Systems

12350. This chapter shall govern all elections except those totally using paper ballots counted by hand. Voting machines are governed by this chapter only where this chapter is not inconsistent with Chapter 4 (commencing with Section 19300) of Division 19.

12351. A governing board may adopt a system provided for in this division for any or all precincts within its jurisdiction, and for any portion of, or all of, any election. The election official may, from time to time, combine, rearrange, or enlarge the precincts for which the system is adopted, provided that no direct primary or general election precinct shall include more than 1,000 voters. The governing board may cease to use the system in any or all precincts or elections under its jurisdiction.

12352. A precinct board inspector shall not serve in any election unless he or she has received instruction and is fully qualified to perform his or her duties.

12353. Prior to each election, the elections official shall instruct the precinct board inspector, and as many other board members as possible, in the use of the voting equipment and in their other duties.

12354. This article shall not prevent the appointment and service of a member of a precinct board to fill a vacancy in an emergency.

12355. In any municipal, special district, or school district election at which an electronic, electromechanical, or punchcard voting system is to be used for counting the ballots, the officer in charge of the election may provide that the precinct board shall consist of one inspector and two or more judges, who shall be appointed pursuant to Article 1 (commencing with Section 12300). This section shall not apply to any local election consolidated with a statewide direct primary or general election.

12356. Except as otherwise provided in this chapter, in local elections where precincts consist of fewer than 500 voters and where ballots are to be counted by means of vote tabulating devices, the precinct board may consist of one inspector and two clerks.

12357. Where part of the ballot is voted upon paper and part upon voting machines, there shall be appointed an additional precinct board member.

DIVISION 13. BALLOTS, SAMPLE BALLOTS, AND VOTER PAMPHLETS

CHAPTER 1. PURCHASING PROCEDURES

13000. The person in charge of elections for any county, city and county, city, or district shall provide ballots for any elections within his or her jurisdiction, and shall cause to be printed on them the name of every candidate whose name has been certified to or filed with the proper officer pursuant to law and who, therefore, is entitled to a place on the appropriate ballot.

13001. (a) Except as specified in subdivision (b), all expenses, authorized and necessarily incurred in the preparation for and conduct of elections as provided in this code, shall be paid from the county treasuries, except that when an election is called by the governing body of a city, the expenses shall be paid from the treasury of the city. All payments shall be made in the same manner as other county or city expenditures are made. The elections official, in providing the materials required by this division, need not utilize the services of the county or city purchasing agent.

(b) All expenses authorized and necessarily incurred in the preparation for and conduct of elections proclaimed by the Governor to fill a vacancy in the office of State Senator or Member of the Assembly, or to fill a vacancy in the office of United States Senator or Representative in the United States House of Representatives, shall be paid by the state. If an election proclaimed by the Governor to fill a vacancy in an office specified in this subdivision is consolidated with any other local election, only those additional expenses directly related to the election proclaimed by the Governor to fill a vacancy in the office shall be paid by the state.

(c) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

13001. (a) All expenses authorized and necessarily incurred in the preparation for and conduct of elections as provided in this code shall be paid from the county treasuries, except that when an election is called by the governing body of a city the expenses shall be paid from the treasury of the city. All payments shall be made in the same manner as other county or city expenditures are made. The elections official, in providing the materials required by this division, need not utilize the services of the county or city purchasing agent.

(b) This section shall become operative on January 1, 1996.

13002. All ballot paper and punchcards used by any jurisdiction holding an election pursuant to the laws of California, shall be tinted and watermarked or overprinted with a design, to be furnished by the Secretary of State, so that the watermark or overprint shall be plainly discernible.

13003. The Secretary of State shall obtain and keep on hand a sufficient supply of tinted ballot paper, and shall obtain and keep on

hand a backup supply of tinted punchcards, to be furnished, in quantities ordered, to any jurisdiction holding an election pursuant to the laws of California, upon payment of the cost of the ballot paper or punchcards.

13004. The Secretary of State shall adopt regulations governing the manufacture, distribution, and inventory control of punchcards and requiring the periodic inspection of the manufacturing and storage facilities involving punchcards. The Secretary of State shall also approve each punchcard manufacturer prior to a manufacturer providing punchcards for use in California elections.

13005. (a) Before any user may purchase punchcards, the user shall request in writing a release for a specific quantity of these punchcards from the Secretary of State. If the request is in order, the Secretary of State shall then issue a written release for that quantity to the manufacturer, or to the authorized warehouse, and to the user. The format, text, and use of the request and release shall be governed by regulations adopted by the Secretary of State.

(b) Nothing in this section shall be construed to prohibit a verbal request or verbal release, provided that this verbal request or verbal release is immediately confirmed in writing. The regulations shall expressly deny the manufacturing of punchcards without a specific release.

13006. No user, vendor, or manufacturer shall warehouse for a subsequent election any ballot paper or punchcards furnished or released by the Secretary of State for a specific election without first obtaining authorization in writing from the Secretary of State for the storage. The authorization shall include the particular details of the amount to be stored so that audit controls may be established and maintained. Any ballot paper or punchcards not used in that election, not authorized to be retained for subsequent elections, and not returned to the Secretary of State, shall be destroyed. A certificate of destruction setting forth the date of destruction and the amount of the ballot paper or punchcards destroyed shall be transmitted to the Secretary of State.

13007. There shall be a revolving fund for the purchase of ballot paper and punchcards. The fund shall be continuously appropriated and shall be continuously utilized without regard to fiscal years for the payment of expenses incurred by the Secretary of State in accordance with this section. The fund shall be used for the purchase of ballot paper and punchcards, as provided in this chapter, and shall be reimbursed by the receipts from the jurisdiction obtaining the ballot paper or punchcards in accordance with this chapter. The fund shall at all times be intact and represented either by cash in the State Treasury, ballot paper, or punchcards in the custody of the Secretary of State, or accounts receivable representing ballot paper or punchcard sales.

CHAPTER 2. FORMS OF BALLOTS: BALLOT ORDER

13100. All ballots used in all elections shall be governed by this chapter unless otherwise specifically provided.

13101. In the case of the prevention of an election in any precinct by the loss or destruction of the ballots intended for that precinct, the inspector or other precinct officer for that precinct shall make an affidavit setting forth the fact and transmit it to the Governor. Upon receipt of the affidavit, the Governor may, and upon the application of any candidate for any office to be voted for by the voters of that precinct the Governor shall, order a new election in that precinct.

13102. (a) All voting shall be by ballot. There shall be provided, at each polling place, at each election at which public officers are to be voted for, but one form of ballot for all candidates for public office, except that, for partisan primary elections, one form of ballot shall be provided for each qualified political party as well as one form of nonpartisan ballot, in accordance with subdivision (b).

(b) At partisan primary elections, each voter not registered as intending to affiliate with any one of the political parties participating in the election shall be furnished only a nonpartisan ballot. The nonpartisan ballot shall contain only the names of all candidates for nonpartisan offices and measures to be voted for at the primary election. Each voter registered as intending to affiliate with a political party participating in the election shall be furnished only a ballot of the political party with which he or she is registered and the nonpartisan ballot, both of which shall be printed together as one ballot in the form prescribed by Section 13207.

13103. Every ballot shall contain all of the following:

(a) The title of each office, arranged to conform as nearly as practicable to the plan set forth in this chapter.

(b) The names of all qualified candidates, except that:

(1) Instead of the names of candidates for delegate to the national conventions, there shall be printed the names of the presidential candidates to whom they are pledged or the names of candidates for chairmen of party national convention delegations.

(2) Instead of the names of candidates for presidential electors, there shall be printed in pairs the names of the candidates of the respective parties for President and Vice President of the United States. These names shall appear under the title "President and Vice President."

(c) The titles and summaries of measures submitted to vote of the voters.

13104. If a candidate changes his or her name within one year of any election, the new name shall not appear upon the ballot unless the change was made by either of the following:

(a) Marriage.

(b) Decree of any court of competent jurisdiction.

13105. (a) In the case of candidates for partisan office in a general election or in a special election to fill a vacancy in the office

of Representative in Congress, State Senator, or Member of the Assembly, immediately to the right of and on the same line as the name of the candidate, or immediately below the name, if there is not sufficient space to the right of the name, there shall be printed in eight-point roman lowercase type the name of the qualified political party with which the candidate is affiliated.

(b) In the case of candidates for President and Vice President, the name of the party shall appear to the right of and equidistant from the pair of names of these candidates.

(c) If for a general election any candidate has received the nomination of any additional party or parties, the name(s) shall be printed to the right of the name of the candidate's own party. Party names of a candidate shall be separated by commas. If a candidate has qualified for the ballot by virtue of an independent nomination, the word "Independent" shall be printed instead of the name of a political party in accordance with the above rules.

13106. No title or degree shall appear on the same line on a ballot as a candidate's name, either before or after the candidate's name, in the case of any election to any office.

13107. (a) With the exception of candidates for Justice of the State Supreme Court or court of appeal, immediately under the name of each candidate, and not separated from the name by any line, may appear at the option of the candidate only one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination documents to which he or she was elected by vote of the people, or to which he or she was appointed, in the case of a superior, municipal, or justice court judge.

(2) The word "incumbent" if the candidate is a candidate for the same office which he or she holds at the time of filing the nomination papers, and was elected to that office by a vote of the people, or, in the case of a superior, municipal, or justice court judge, was appointed to that office.

(3) No more than three words designating either the current principal professions, vocations, or occupations of the candidate, or the principal professions, vocations, or occupations of the candidate during the calendar year immediately preceding the filing of nomination documents. For purposes of this section, all California geographical names shall be considered to be one word.

(4) The phrase "appointed incumbent" if the candidate holds an office other than a judicial office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office. In either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed." However, the phrase "appointed incumbent" shall not be required of a candidate who seeks reelection to an office

which he or she holds and to which he or she was appointed, as a nominated candidate, in lieu of an election, pursuant to Sections 5326 and 5328 of the Education Code or Section 7228, 7423, 7673, 10229, or 10515 of this code.

(b) Neither the Secretary of State nor any other election official shall accept a designation of which any of the following would be true:

(1) It would mislead the voter.

(2) It would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.

(3) It abbreviates the word "retired" or places it following any word or words which it modifies.

(4) It uses a word or prefix, such as "former" or "ex-," which means a prior status. The only exception is the use of the word "retired."

(5) It uses the name of any political party, whether or not it has qualified for the ballot.

(6) It uses a word or words referring to a racial, religious, or ethnic group.

(7) It refers to any activity prohibited by law.

(c) If, upon checking the nomination documents, the election official finds the designation to be in violation of any of the restrictions set forth in this section, the election official shall notify the candidate by registered or certified mail return receipt requested, addressed to the mailing address appearing on the candidate's nomination documents.

(1) The candidate shall, within three days from the date of receipt of the notice, appear before the election officer or, in the case of the Secretary of State, notify the Secretary of State by telephone, and provide an alternate designation.

(2) In the event the candidate fails to provide an alternate designation, no designation shall appear after the candidate's name.

(d) No designation given by a candidate shall be changed by the candidate after the final date for filing nomination documents, except as specifically requested by the elections official as specified in subdivision (c) or as provided in subdivision (e).

(e) The designation shall remain the same for all purposes of both primary and general elections, unless the candidate, at least 83 days prior to the general election, requests in writing a different designation which the candidate is entitled to use at the time of the request.

(f) In all cases, words so used shall be printed in 8-point roman uppercase and lowercase type except that, if the designation selected is so long that it would conflict with the space requirements of Sections 13207 and 13211, the elections official shall use a type size for the designation for each candidate for that office sufficiently smaller to meet these requirements.

(g) Whenever a foreign language translation of a candidate's designation is required under the Voting Rights Act of 1965 (42

U.S.C.A. Sec. 1971), as amended, to appear on the ballot in addition to the English language version, it shall be as short as possible, as consistent as is practicable with this section, and shall employ abbreviations and initials wherever possible in order to avoid undue length.

13108. (a) At the first elections for Representative in Congress, State Senator, Assemblyman and Members of the Board of Equalization in each congressional, senatorial, Assembly, and Board of Equalization district following reapportionment acts of the Legislature redefining the boundaries of the congressional, senatorial, Assembly, and Board of Equalization districts pursuant to Section 6 of Article IV, Section 17 of Article XIII, and Section 1 of Article XXI, of the California Constitution, that candidate who shall be deemed the incumbent in a given district for purposes of the election shall be that candidate who is running for the same office which he or she then holds, and who is running for reelection in a district that has the identical boundaries and number as the district from which he or she was last elected.

(b) In the event there is no candidate to whom subdivision (a) applies, the incumbent shall be that candidate who is running for the same office which he or she then holds, and who is running for reelection in a district that has the identical boundaries as the district from which he or she was last elected, but which has a different number.

(c) In the event there is no candidate to whom subdivision (a) or (b) apply, the incumbent shall be that candidate who is running for the same office which he or she then holds, and who is running for reelection in a district that has the identical number as the district from which he or she was last elected. However, a candidate for the office of Member of the Assembly shall be considered the incumbent in this case only if the district bearing the same number is located in the same county as the district which previously bore that number.

(d) In the event there is no candidate to whom subdivision (a), (b), or (c) apply, the incumbent shall be that candidate who is running for the same office that he or she then holds, and who is running for reelection in a district that contains some portion of the territory previously contained within the district from which he or she was last elected. However, in a new district that contains portions of the territory of more than one former district, the incumbent shall be that candidate the greater portion of the territory of whose former district is included within the new district.

(e) If there is no candidate in a given district to which any of the above provisions apply, the incumbent shall be any person who is a candidate for the same office that he or she then holds who fulfills the residential requirements of law for candidacy within the district.

13109. The order of precedence of offices on the ballot shall be as listed below for those offices and measures that apply to the election for which this ballot is provided. Beginning in the column to the left:

(a) Under the heading, PRESIDENT AND VICE PRESIDENT:
Nominees of the qualified political parties and independent nominees for President and Vice President.
(b) Under the heading, PRESIDENT OF THE UNITED STATES:
(1) Names of the presidential candidates to whom the delegates are pledged.
(2) Names of chairmen of unpledged delegations.
(c) Under the heading, STATE:
(1) Governor.
(2) Lieutenant Governor.
(3) Secretary of State.
(4) Controller.
(5) Treasurer.
(6) Attorney General.
(7) Insurance Commissioner.
(8) Member, State Board of Equalization.
(d) Under the heading, UNITED STATES SENATOR:
Candidates or nominees to the United States Senate.
(e) Under the heading, UNITED STATES REPRESENTATIVE:
Candidates or nominees to the House of Representatives of the United States.
(f) Under the heading, STATE SENATOR:
Candidates or nominees to the State Senate.
(g) Under the heading, MEMBER OF THE STATE ASSEMBLY:
Candidates or nominees to the Assembly.
(h) Under the heading, COUNTY COMMITTEE:
Members of County Central Committee.
(i) Under the heading, JUDICIAL:
(1) Chief Justice of California.
(2) Associate Justice of the Supreme Court.
(3) Presiding Justice, Court of Appeal.
(4) Associate Justice, Court of Appeal.
(5) Judge of the Superior Court.
(6) Judge of the Municipal Court.
(7) Judge of the Justice Court.
(8) Marshal.
(9) Constable.
(j) Under the heading, SCHOOL:
(1) State Superintendent of Public Instruction.
(2) County Superintendent of Schools.
(3) County Board of Education Members.
(4) College District Governing Board Members.
(5) Unified District Governing Board Members.
(6) High School District Governing Board Members.
(7) Elementary District Governing Board Members.
(k) Under the heading, COUNTY:
(1) County Supervisor.
(2) Other offices in alphabetical order by the title of the office.
(*l*) Under the heading, CITY:

(1) Mayor.
(2) Member, City Council.
(3) Other offices in alphabetical order by the title of the office.
(m) Under the heading, DISTRICT:
Directors or trustees for each district in alphabetical order according to the name of the district.
(n) Under the heading, MEASURES SUBMITTED TO VOTE OF VOTERS and the appropriate heading from subdivisions (a) through (m), above, ballot measures in the order, state through district shown above, and within each jurisdiction, in the order prescribed by the official certifying them for the ballot.
(o) In order to allow for the most efficient use of space on the ballot in counties that use a voting system, as defined in Section 362, the county elections official may vary the order of subdivisions (j), (k), (*l*), and (m) as well as the order of offices within these subdivisions. However, the office of State Superintendent of Public Instruction shall always precede any school, county, or city office.
13110. The group of names of candidates for any partisan office or nonpartisan office shall be the same on the ballots of all voters entitled to vote for candidates for that office, except that in partisan primary elections, the names of candidates for nomination to partisan office shall appear only on the ballots of the political party, the nomination of which they seek.
13111. Candidates for each office shall be printed on the ballot in accordance with the following rules:
(a) The names of presidential candidates to whom candidates for delegate to the national convention are pledged, and the names of chairpersons of groups of candidates for delegate expressing no preference, shall be arranged on the primary election ballot by the Secretary of State by the names of the candidates in accordance with the randomized alphabet as provided for in Section 13112 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.
(b) The names of the pairs of candidates for President and Vice President shall be arranged on the general election ballot by the Secretary of State by the names of the candidates for President in accordance with the randomized alphabet as provided for in Section 13112 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the pair appearing first in the last preceding Assembly district shall be placed last, the order of the other pairs remaining unchanged.
(c) In the case of all other offices, the candidates for which are to be voted on throughout the state, the Secretary of State shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 13112 for the First Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding Assembly district shall

be placed last, the order of the other names remaining unchanged.

(d) If the office is that of Representative in Congress or member of the State Board of Equalization, the Secretary of State shall arrange the names of candidates for the office in accordance with the randomized alphabet as provided for in Section 13112 for that Assembly district that has the lowest number of all the Assembly districts in which candidates are to be voted on. Thereafter, for each succeeding Assembly district in which the candidates are to be voted on, the names appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(e) If the office is that of State Senator or Member of the Assembly, the county elections official shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 13112, unless the district encompasses more than one county, in which case the arrangement shall be made pursuant to subdivision (i).

(f) If the office is to be voted upon wholly within, but not throughout, one county, as in the case of municipal, district, county supervisor, municipal court, justice court, and county central committee offices, the official responsible for conducting the election shall determine the order of names in accordance with the randomized alphabet as provided for in Section 13112.

(g) If the office is to be voted on throughout a single county, and there are not more than four Assembly districts wholly or partly in the county, the county elections official shall determine the order of names in accordance with the randomized alphabet as provided for in Section 13112 for the first supervisorial district. Thereafter, for each succeeding supervisorial district, the name appearing first for each office in the last preceding supervisorial district shall be placed last, the order of the other names remaining unchanged.

(h) If there are five or more Assembly districts wholly or partly in the county, an identical procedure shall be followed, except that rotation shall be by Assembly district, commencing with the Assembly district which has the lowest number.

(i) Except as provided in subdivision (d) of Section 13112, if the office is that of State Senator or Member of the Assembly, and the district includes more than one county, the county elections official in each county shall conduct a drawing of the letters of the alphabet, pursuant to the same procedures specified in Section 13112. The results of the drawing shall be known as a county randomized ballot and shall be used only to arrange the names of the candidates when the district includes more than one county.

(j) If the office is that of Justice of the California Supreme Court or a Court of Appeal, the appropriate elections officials shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 13112. However, the names of the judicial candidates shall not be rotated among the applicable districts.

13112. The Secretary of State shall conduct a drawing of the letters of the alphabet, the result of which shall be known as a randomized alphabet. The procedure shall be as follows:

(a) Each letter of the alphabet shall be written on a separate slip of paper, each of which shall be folded and inserted into a capsule. Each capsule shall be opaque and of uniform weight, color, size, shape, and texture. The capsules shall be placed in a container, which shall be shaken vigorously in order to mix the capsules thoroughly. The container then shall be opened and the capsules removed at random one at a time. As each is removed, it shall be opened and the letter on the slip of paper read aloud and written down. The resulting random order of letters constitutes the randomized alphabet, which is to be used in the same manner as the conventional alphabet in determining the order of all candidates in all elections. For example, if two candidates with the surnames Campbell and Carlson are running for the same office, their order on the ballot will depend on the order in which the letters M and R were drawn in the randomized alphabet drawing.

(b) (1) There shall be four drawings, three in each even-numbered year and one in each odd-numbered year. Each drawing shall be held at 11 a.m. on the date specified in this subdivision. The results of each drawing shall be mailed immediately to each county elections official responsible for conducting an election to which the drawing is applicable, who shall use it in determining the order on the ballot of the names of the candidates for office.

(A) The first drawing under this subdivision shall take place on the 82nd day before the April general law city elections, and shall apply to those elections and any other elections held at the same time.

(B) The second drawing under this subdivision shall take place on the 82nd day before the direct primary in June of an even-numbered year, and shall apply to all candidates on the ballot in that election.

(C) (i) The third drawing under this subdivision shall take place on the 82nd day before the November general election of an even-numbered year, and shall apply to all candidates on the ballot in the November general election.

(ii) In the case of the June primary election and the November general election, the Secretary of State shall certify and transmit to each county elections official the order in which the names of federal and state candidates, with the exception of candidates for State Senate and Assembly, shall appear on the ballot. The elections official shall determine the order on the ballot of all other candidates using the appropriate randomized alphabet for that purpose.

(D) The fourth drawing under this subdivision shall take place on the 82nd day before the first Tuesday after the first Monday in November of the odd-numbered year, and shall apply to all candidates on the ballot in the elections held on that date.

(2) In the event there is to be an election of candidates to a special

district, school district, charter city, or other local government body at the same time as one of the four major election dates specified in subparagraphs (A) to (D), inclusive, and the last possible day to file nomination papers for the local election would occur after the date of the drawing for the major election date, the procedure set forth in Section 13113 shall apply.

(c) Each randomized alphabet drawing shall be open to the public. At least 10 days prior to a drawing, the Secretary of State shall notify the news media and other interested parties of the date, time, and place of the drawing. The president of each statewide association of local officials with responsibilities for conducting elections shall be invited by the Secretary of State to attend each drawing or send a representative. The state chairman of each qualified political party shall be invited to attend or send a representative in the case of drawings held to determine the order of candidates on the June primary election ballot, the November general election ballot, or a special election ballot as provided for in subdivision (d).

(d) In the case of any special election for State Assembly, State Senate, or Representative in Congress, on the first weekday after the close of filing of nomination papers for the office, the Secretary of State shall conduct a public drawing to produce a randomized alphabet in the same manner as provided for in subdivisions (a) and (c). The resulting randomized alphabet shall be used for determining the order on the ballot of the candidates in both the primary election for the special election and in the special election.

13113. (a) In the case of an election of candidates in a special district, school district, charter city (whose charter does not provide to the contrary), or other local government body, occurring on other than one of the four major election dates specified in subdivision (b) of Section 13112, the official responsible for conducting the election shall, at the same time that the election is called, notify the Secretary of State by registered mail of the date of the election, the date of the close of filing, and the last possible date for filing in the event there is an extension of filing due to an incumbent failing to file. The Secretary of State shall conduct a randomized alphabet drawing on the first weekday following the last possible day of filing for such an election according to subdivision (a) of Section 13112.

(b) If two or more drawings for local government elections would occur on the same date, the Secretary of State may use a single randomized alphabet drawing for all of these elections. The Secretary of State shall communicate the results of the drawing by registered mail to each respective official responsible for conducting the election who shall use it to determine the order on the ballot of all candidates' names.

(c) All drawings held pursuant to this section shall be open to the public.

13114. (a) At any regular meeting of a city council held prior to the date on which the Secretary of State conducts the randomized alphabet drawing applicable to the regular municipal election under

Section 13112, or, under Section 13113, applicable to a special election called to fill a vacancy on the city council, the city council may, by resolution, provide for the rotation on the ballot of the names of candidates for any elective city office.

(b) A resolution adopted pursuant to subdivision (a) shall specify which regular statewide election precincts or, if precincts have been consolidated for purposes of the city election, which consolidated precincts, shall constitute each cluster of precincts for purposes of the rotation of candidates' names on the ballot.

(c) (1) As used in this section, a "cluster" shall consist of one or more precincts which need not be contiguous. The clusters of precincts shall be numbered in consecutive order for purposes of ballot rotation of candidates' names, and the resolution shall list the clusters by number and identify which precincts are in each cluster.

(2) No cluster of precincts shall contain a number of registered voters which is more than 10 percent greater or lesser than the average number of registered voters for a cluster as of the most recent estimate by the county elections official of the number of registered voters in each regular precinct in the city prior to the adoption of the resolution. The resolution shall set forth the total number of registered voters in each cluster.

(d) A resolution adopted pursuant to subdivision (a) shall specify that, in the cluster designated as cluster number one, the names shall appear on the ballot in the order determined by the Secretary of State's randomized alphabet drawing. For each successive cluster, the resolution shall specify the manner of determining the order of the candidates' names by applying the following:

(1) If the number of candidates for an office is equal to or less than the number of clusters, in cluster number two and each successive cluster, the name appearing first in the last preceding cluster shall be placed last, the order of the other names remaining unchanged.

(2) If the number of candidates for an office is greater than the number of clusters, the former shall be divided by the latter. If the resulting quotient is a mixed number and the fractional part of the mixed number is less than one-half, the fraction shall be discarded. If the fractional part of the mixed number is one-half or greater, the quotient shall be raised to the next largest whole number. The whole number that results from this process shall be the number of candidates that, in cluster number two and each successive cluster, shall be taken from the beginning of the list and placed at the end of the list, the order of the other names remaining unchanged.

(e) (1) No city may provide for rotation of candidates' names on the ballot for a particular election unless the resolution authorizing it, in accordance with this section, is adopted by the city council at a regular meeting, at which the city elections official has provided cost estimates of this rotation, prior to the date of the randomized alphabet drawing applicable to the election.

(2) A city council resolution that provides for rotation of candidates' names pursuant to this section for any election which is

consolidated with any county or state election shall also provide for the payment of computer programming, formatting, preparation, and all similar related administrative costs associated with development of the ballot on which those names appear.

13115. The order in which all state measures that are to be submitted to the voters shall appear upon the ballot is as follows:

(a) Bond measures in the order in which they qualify.

(b) Constitutional amendments in the order in which they qualify.

(c) Other legislative measures in the order in which they are approved by the Legislature.

(d) Initiative measures in the order in which they qualify.

(e) Referendum measures in the order in which they qualify.

13116. (a) In an election at which state, county, city, or other local measures are submitted to a vote of the voters, all state measures shall be numbered in numerical order, as provided in this chapter or division. All county, city, or other local measures shall be designated by a letter, instead of a figure, printed on the left margin of the square containing the description of the measure, commencing with the letter "A" and continuing in alphabetical order, one letter for each of these measures appearing on the ballot.

(b) An elections official may commence designating local measures with any letter of the alphabet following the letter "A," and continuing in alphabetical order, in order to avoid voter confusion that might result from different local measures carrying the same letter designation in successive elections.

(c) Where two or more counties or cities submitting measures to the voters are in close proximity, the elections officials of those counties or cities may mutually agree to use letter designation for ballot measures that will not conflict or confuse the voter.

13117. (a) Commencing with the November 2, 1982, general election, all state measures in all elections at which state measures are submitted to a vote of the voters shall be numbered in a continuous sequence, commencing with the number "1" and continuing in numerical sequence for a period of 20 years from the year of commencement.

(b) At the completion of a 20-year cycle, the numbering sequence shall recommence with the number "1" at the next election at which state measures are submitted to a vote of the voters.

13118. The following rules apply whenever any person who is a candidate for any office believes that some other person with a name that is so similar that it may be confused with his or her name has filed or will file a nomination paper for the same office:

(a) The candidate may, at the time of filing his or her nomination paper, or within five days after the time for filing nomination papers has expired, file with the county elections official a statement that shall be in substance as follows:

"I _____, believe that some other person, whose name is so similar

to mine that it may be confused with mine, has filed or will file a nomination paper for the same office for which I have filed a nomination paper, and I therefore request and direct that number _____ be printed with my name on the ballot as a distinguishing mark.

_____
Name
Candidate for the office
of _____ "

(b) The distinguishing mark shall be a number and shall be printed in large boldface type at the left of the name on the ballot.

(c) If two or more candidates for the same office designate the same distinguishing number, the first candidate who filed his or her nomination papers shall have the number, and other candidates who designate the same number may file papers designating other distinguishing numbers.

(d) In addition to the designated number or numbers that the county elections official shall place on the ballot when the above conditions are met, he or she shall place on the ballot, immediately following the designation of the office and immediately preceding the names of the candidates to be voted upon, the following warning in boldface type:

"Warning! There are two (or applicable number) candidates for this office with identical names."

This warning shall also be included, in boldface type and in a prominent manner, on any sample ballot, ballot pamphlet, or other mailing sent by the county elections official, prior to the election, to persons eligible to vote for this office.

13119. The ballots used when voting upon a proposed county, city, or district ordinance submitted to the voters of the respective local government as an initiative measure pursuant to Division 9 (commencing with Section 9000) shall have printed on them the words "Shall the ordinance (stating the nature thereof) be adopted?" Opposite the statement of the ordinance to be voted on, and to its right, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If a voter stamps a cross (+) in the voting square after the printed word "Yes," his or her vote shall be counted in favor of the adoption of the ordinance. If he or she stamps a cross (+) in the voting square after the printed word "No," his or her vote shall be counted against its adoption.

13120. The ballots used when voting upon a state, county, city, or district statute or ordinance referred to the voters of the respective jurisdiction as a referendum measure pursuant to Division 9 (commencing with Section 9000) shall have printed on them the words "Shall the statute (or ordinance) (stating the nature thereof, including any identifying number or title) be adopted?" Opposite

the statement of the statute or ordinance to be voted on and to its right, the words "Yes" and "No" shall be printed on separate lines, with voting squares. If a voter stamps a cross (+) in the voting square after the printed word "Yes," his or her vote shall be counted in favor of the adoption of the ordinance or statute. If he or she stamps a cross (+) in the voting square after the printed word "No," his or her vote shall be counted against its adoption.

13121. Notwithstanding any other provision of this code, the county elections official conducting any school election shall not be required to provide more than one ballot to the same voter for the purpose of voting on separate propositions at the same election. However, no voter shall be presented with a ballot containing a proposition on which he or she is not entitled to vote by reason of not residing within the district or area affected by the proposition.

CHAPTER 3. BALLOT PRINTING SPECIFICATIONS

Article 1. General Provisions

13200. Ballots not printed in accordance with this chapter shall not be cast nor counted at any election.

13201. The ballots of each political party shall be designed so that each ballot may be easily and clearly distinguished from, and not confused with, a ballot of any other political party.

13202. All ballots of the same sort prepared by any county elections official, clerk or secretary of a legislative body, or other person having charge of preparing ballots for the same polling place, shall be precisely the same size, arrangement, quality and tint of paper, and kind of type, and shall be printed with black ink of the same tint, so that without the numbers on the stubs it is impossible to distinguish any one of the ballots from the other ballots of the same sort. The names of all candidates printed upon the ballot shall be in type of the same size and character.

13203. Across the top of the ballot shall be printed in heavy-faced gothic capital type not smaller than 30-point, the words "OFFICIAL BALLOT." However, if the ballot is no wider than a single column, the words "OFFICIAL BALLOT" may be as small as 24-point. Beneath this heading, in the case of a partisan primary election, shall be printed in 18-point boldfaced gothic capital type the official party designation or the words "NONPARTISAN BALLOT" as applicable. Beneath the heading line or lines, there shall be printed, in boldface type as large as the width of the ballot makes possible, the number of the congressional, Senate, and Assembly district, the name of the county in which the ballot is to be voted, and the date of the election.

13204. (a) The instructions to voters shall be printed at least three-eighths of an inch below the district designation. The instructions shall begin with the words "INSTRUCTIONS TO VOTERS:" in no smaller than 16-point gothic condensed capital type. Thereafter, there shall be printed in 10-point gothic type all of the

following directions that are applicable to the ballot:

"To vote for a candidate for Chief Justice of California; Associate Justice of the Supreme Court; Presiding Justice, Court of Appeal; or Associate Justice, Court of Appeal, stamp a cross (+) in the voting square after the word "Yes," to the right of the name of the candidate. To vote against that candidate, stamp a cross (+) in the voting square after the word "No," to the right of the name of that candidate."

"To vote for any other candidate of your selection, stamp a cross in the voting square to the right of the candidate's name. [When justices of the Supreme Court or court of appeal do not appear on the ballot, the instructions referring to voting after the word "Yes" or the word "No" will be deleted and the above sentence shall read: "To vote for a candidate whose name appears on the ballot, stamp a cross (+) in the voting square to the right of the candidate's name." Where two or more candidates for the same office are to be elected, stamp a cross (+) after the names of all candidates for the office for whom you desire to vote, not to exceed, however, the number of candidates to be elected."

"To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office."

"To vote on any measure, stamp a cross (+) in the voting square after the word "Yes" or after the word "No."

"All distinguishing marks or erasures are forbidden and make the ballot void."

"If you wrongly stamp, tear, or deface this ballot, return it to the precinct board member and obtain another."

"On absent voter ballots mark a cross (+) with pen or pencil."

(b) The instructions to voters shall be separated by no smaller than a two-point rule from the portion of the ballot which contains the various offices and measures to be voted on.

13205. Additional instructions to voters shall appear on the ballot prior to those provided for in Section 13204 under the following conditions:

(a) In a primary election at which candidates for delegate to national convention are to be voted upon, the instructions shall read:

"To vote for the group of candidates preferring a person whose name appears on the ballot, stamp a cross (+) in the square opposite the name of the person preferred. To vote for a group of candidates not expressing a preference for a particular candidate, stamp a cross (+) in the square opposite the name of the chairman of the group."

(b) In elections when electors of President and Vice President of the United States are to be chosen, there shall be placed upon the ballot, in addition to the instructions to voters as provided in this chapter, an instruction as follows:

"To vote for all of the electors of a party, stamp a cross (+) in the square opposite the names of the presidential and vice presidential candidates of that party. A cross (+) stamped in the square opposite

the name of a party and its presidential and vice presidential candidate, is a vote for all of the electors of that party, but for no other candidates."

(c) If a group of candidates for electors has been nominated under Chapter 3 (commencing with Section 8400) of Division 8, and has under Chapter 1 (commencing at Section 8300) of Division 8 designated the names of the candidates for President and Vice President of the United States for whom those candidates have pledged themselves to vote, the instructions to voters shall also contain the following:

"To vote for those electors who have pledged themselves to vote for a candidate for President and Vice President not supported by any particular party stamp a cross (+) in the square opposite the names of those presidential and vice presidential candidates."

(d) If a group of candidates for electors has been nominated by a party not qualified to participate in the election, the instructions to voters shall also contain the following:

"To vote for those electors who have pledged themselves to vote for a candidate for President and for Vice President of any party not qualified to participate in the election write in the names and party of those presidential and vice presidential candidates in the blank space provided for that purpose."

13206. (a) On the partisan ballot used in a direct primary election, immediately below the instructions to voters, there shall be a box one-half inch high enclosed by a heavy-ruled line the same as the borderline. This box shall be as long as there are columns for the partisan ballot and shall be set directly above these columns. Within the box shall be printed in 24-point boldfaced gothic capital type the words "Partisan Offices."

(b) The same style of box described in subdivision (a) shall also appear over the columns of the nonpartisan part of the ballot and within the box in the same style and point size of type shall be printed "Nonpartisan Offices."

13207. (a) There shall be printed on the ballot in parallel columns all of the following:

(1) The respective offices.

(2) The names of candidates with sufficient blank spaces to allow the voters to write in names not printed on the ballot.

(3) Whatever measures have been submitted to the voters.

(b) In the case of a ballot which is intended for use in a party primary and which carries both partisan offices and nonpartisan offices, a vertical solid black line shall divide the columns containing partisan offices, on the left, from the columns containing nonpartisan offices, on the right.

(c) The standard width of columns containing partisan and nonpartisan offices shall be three inches, but a elections official may vary the width of these columns up to 10 percent more or less than the three-inch standard. However, the column containing presidential and vice presidential candidates may be as wide as four

inches.

(d) Any measures that are to be submitted to the voters shall be printed in one or more parallel columns to the right of the columns containing the names of candidates and shall be of sufficient width to contain the title and summary of each measure. To the right of each title and summary shall be printed, on separate lines, the words "Yes" and "No."

13208. (a) In the right-hand margin of each column light vertical lines shall be printed in such a way as to create a voting square after the name of each candidate for partisan office, nonpartisan office (except for justice of the Supreme Court or court of appeal), or for chairman of a group of candidates for delegate to a national convention who express no preference for a presidential candidate. In the case of Supreme Court or appellate justices and in the case of measures submitted to the voters, the lines shall be printed so as to create voting squares to the right of the words "Yes" and "No." The voting squares shall be used by the voters to express their choices as provided for in the instruction to voters.

(b) The standard voting square shall be at least three-eighths of an inch square but may be up to one-half inch square. Voting squares for measures may be as tall as is required by the space occupied by the title and summary.

13209. Whenever a foreign translation of the ballot is required by the federal Voting Rights Act of 1965, as amended by Public Law 94-73, to appear on the ballot as well as the English language version, the ballot, including a ballot reference page or pages as specified in Section 301, may be so designed as to place the foreign translation to the right of the voting square.

13210. (a) In the case of candidates for delegate to national convention, there shall be printed in boldface gothic type, not smaller than 12-point, across the column above the names of the persons preferred by the groups of candidates for delegates, the words, "President of the United States." The words "Vote for one group only" shall extend to the extreme right-hand margin of the column and over the voting square.

(b) In the case of candidates for President and Vice President, the words "Vote for One Party" shall appear just below the heading "President and Vice President" and shall be printed so as to appear above the voting squares for that office. The heading "President and Vice President" shall be printed in boldface 12-point gothic type, and shall be centered above the names of the candidates.

(c) In the case of candidates for Justice of the Supreme Court and court of appeal, within the rectangle provided for each candidate, and immediately above each candidate's name, there shall appear the following: "For (designation of judicial office)." There shall be as many of these headings as there are candidates for these judicial offices. No heading shall apply to more than one judicial office. Underneath each heading shall appear the words "Shall (name of Justice) be elected to the office for the term expiring _____?"

(d) In the case of all other candidates, each group of candidates to be voted on shall be preceded by the designation of the office for which they are running, and the words "vote for one" or "vote for no more than two," or more, according to the number to be nominated or elected. The designation of the office shall be printed flush with the left-hand margin in boldfaced gothic type not smaller than 8-point. The words, "vote for _____" shall extend to the extreme right-hand margin of the column and over the voting square. The designation of the office and the directions for voting shall be separated from the candidates by a light line. There shall be no line between the headings for federal or legislative offices and the designation of the office and the directions for voting.

13211. The names of the candidates shall be printed on the ballot, without indentation, in roman capital, boldface type not smaller than eight-point, between light lines or rules at least three-eighths of an inch apart but no more than one-half inch apart. However, in the case of candidates for President and Vice President, the lines or rules may be as much as five-eighths of an inch apart.

13212. Under the designation of each office shall be printed as many blank spaces, defined by light lines or rules at least three-eighths of an inch apart but no more than one-half inch apart, as there are candidates to be nominated or elected to the office.

13213. Each group of names of candidates for a particular office shall be separated from the succeeding group by a three-point rule. Each series of groups shall be headed by the caption "President of the United States," "President and Vice President," "State," "United States Senator," "United States Representative," "State Senator," "Member of the State Assembly," "County," or "City" or other proper general classification, as the case may be, printed in boldfaced gothic capital type, not smaller than 12-point. Each caption shall be separated from the names of the candidates beneath by a two-point line.

13214. The left-hand side of the first column of names on the ballot and the right-hand side of the last column of voting squares on the ballot shall be bordered by a six-point rule. The side edges of the ballot shall be one-half inch outside of the six-point down rule. The binding or stitching of each package of ballots shall be along the top or head of the ballot.

13215. The ballots shall be printed on the same leaf with a stub not over one inch in depth. The stub shall be separated from the ballot by a horizontal perforated line or rule from side to side. Upon this stub shall be printed only the number of the ballot.

13216. (a) On each ballot a horizontal non-solid-ruled line shall extend across the top of the ballot one inch below the horizontal perforated line. The same number appearing on the stub shall be printed above the horizontal, non-solid-ruled line within two inches of the left side of the ballot. Above this number shall be printed in parentheses in small type as follows: "(This number shall be torn off by precinct board member and handed to the voter.)". The words

"I HAVE VOTED—HAVE YOU?" may also be printed immediately above or below the number.

(b) (1) One-half inch to the right of the ballot number there shall be a short vertical perforated rule or line extending upward from the horizontal non-solid-ruled line to the horizontal perforated line. Immediately above this horizontal non-solid-ruled line shall be printed in boldface lowercase type, at least 12-point in size, and enclosed in parentheses, the following: "Fold ballot to this line leaving top margin exposed."

(2) Above this printed direction and midway between it and the top edge of the ballot shall be printed in boldface uppercase type, at least 12-point in size, with the four middle words underlined or otherwise made prominent, the following: "Mark crosses (+) on ballot ONLY WITH RUBBER STAMP; never with pen or pencil."

(3) Below this direction and midway between it and the next line shall be printed in boldface uppercase type, at least 12-point in size, enclosed in parentheses and with the first two and last five words underlined or otherwise made prominent, the following: (ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)

13217. The number on each ballot shall be the same as that on the corresponding stub, and the ballots and stubs shall be numbered consecutively in each county, or the ballots and stubs may be numbered consecutively within each combination of congressional, senatorial, and Assembly districts in each county. In a partisan primary election, the sequence of numbers on the official ballots and stubs for each party within each county, or within each political subdivision in each county, shall begin with the number 1.

13219. When printed, all ballots shall be bound in stub books, of such size as the clerk may determine. A record of the number of ballots printed shall be kept by the officer authorizing the printing.

13220. If two or more officers are to be elected for the same office for different terms, the terms for which each candidate for the office is nominated shall be printed on the ballot as a part of the title of the office. If at a general election an office is to be filled for a full term and also for a vacancy in another term, the list of candidates for the full term shall be placed on the ballot under the designation of the office with the words "Full Term" printed immediately after that designation, and the list of candidates to fill the vacancy shall be placed on the ballot under the designation of the office with the words "Short Term" printed immediately after that designation.

Article 2. Allowable Changes in Ballot Format and Printing

13230. (a) If the county elections official determines that, due to the number of candidates and measures that must be printed on the ballot, the ballot will be larger than may be conveniently handled, the county elections official may provide that a nonpartisan ballot shall be given to each partisan voter, together with his or her partisan

ballot, and that the material appearing under the heading "Nonpartisan Offices" on partisan ballots, as well as the heading itself, shall be omitted from the partisan ballots.

(b) If the county elections official so provides, the procedure prescribed for the handling and canvassing of ballots shall be modified to the extent necessary to permit the use of two ballots by partisan voters. The county elections official may, in this case, order the second ballot to be printed on paper of a different tint, and assign to those ballots numbers higher than those assigned to the ballots containing partisan offices.

13231. If the elections official of any county finds it necessary in connection with the use of any approved method of vote counting, he or she may provide for any of the following changes in the format of ballots in one or more precincts at any election:

(a) Ballots may be bound and padded at the side.

(b) The left and right edge of ballots may be trimmed to the edge of printed material.

(c) A series of punched holes may be provided in the upper right-hand portion of each ballot.

(d) The ballot number may be placed at any place along the top left-hand corner of the ballot.

(e) A cutout section, not to exceed two inches in depth, commencing at the left-hand edge of the far right column of the ballot, may be provided along the top edge of the ballot.

(f) Press perforations may be placed between columns of the ballot, from top to bottom, to permit the folding of the ballot at each perforation.

(g) "Yes" and "No" columns where necessary, may be as narrow as one-quarter inch wide.

(h) The instructions to voters may be placed at the bottom of the ballot instead of at the top of the ballot, and an appropriate reference to the location of the instructions may be printed in the upper right portion of the ballot.

13232. Notwithstanding any other provision of law, for the purpose of conducting the Democratic Party Presidential Primary Election, the Secretary of State may, if it is reasonably necessary to accommodate the limitations of a voter system or vote tabulating device, authorize the county elections officials to do any or all of the following:

(a) Vary the order of any office or measure listed in Section 13109, with the exception of President of the United States, United States Representative, State Senator, Member of the Assembly, and judicial offices.

(b) Place any office listed in Section 13109 on a second ballot, with the exception of United States Representative, State Senator, Member of the State Assembly, judicial offices, County Superintendent of Schools, County Board of Education Members, and county officers.

(c) Place any ballot measure, other than a state measure, on a

separate ballot.

13233. In a municipal election, if the number of candidates for an office is such that all of the names will not fit in one column of reasonable length, a double column may be used, and all of the following provisions shall apply:

(a) The space between the two halves of the double column shall be less than that between the double column and any other columns on the ballot, and the lines separating the columns and the two halves of the double column shall be printed so as to emphasize the fact that the candidates in the double column are running for the same office.

(b) The designation of the office and any other words required to be at the top of a single column shall be printed across the top of the entire double column with no dividing line. The words "Vote for one," "Vote for two," or more, as the case may be, shall be centered over the entire double column and shall be printed below any other words at the top of the double column.

(c) The names of the candidates, including the blank space or spaces necessary to permit the voter to write in the names of persons not printed on the ballot, shall be apportioned as equally as possible between the two columns. The odd space, if any, shall be included in the left-hand column.

(d) The double column shall be used for no more than one office and for no more than one term for any office.

(e) The order of names and blank spaces in the double column shall be the same as would apply to a single column with the left-hand side of the double column taken first.

Article 3. Vote Tabulating Devices

13240. Notwithstanding any other provisions of this code, the ballots to be counted by means of electronic or electromechanical devices may be of a size, composition, and texture that, and may be printed in any type of ink or combination of inks that, will be suitable for use in the counting devices in which they are intended to be placed.

13241. The names of the candidates and the respective offices shall be printed on the ballot in parallel columns at least 2½ inches wide.

13242. Where electromechanical vote tabulating devices are used to count all or part of the ballots, the names of presidential candidates may be printed in the same column as the names of candidates for other offices.

13243. The ballots may contain printed code marks or punched holes that may be used for placing the ballots in correct reading position in the counting devices. The code marks or punched holes shall not be used in any way that will reveal the identity of the voters voting the ballots.

13244. The sample ballot provided pursuant to Chapter 4 (commencing with Section 13300) shall be a substantial facsimile of

the official ballot, including instructions to voters.

13245. Whenever ballots are to be counted pursuant to this chapter, all write-in votes for candidates, to be counted, shall be marked by the voter with the rubber stamp or other marking device in the space provided opposite the names of the write-in candidates. The instructions to voters printed on the ballots shall instruct the voter that the vote will not be counted unless the rubber stamp or other marking device is used in marking the ballot when writing in a candidate's name.

13246. The device for marking the ballot may be of any size, shape, or form, and the impression made on the ballot may be in the form of a cross, square, circle, rectangle, or any other design that will clearly indicate the choice of the voter. Any type of ink or other substance that will clearly show the voter's choice may be used in or in conjunction with the marking device.

13247. (a) The statement of all measures submitted to the voters shall be abbreviated on the ballot. The statement shall contain not more than 75 words of each measure to be voted on, followed by the words, "Yes" and "No." Abbreviation of measures to be voted on throughout the state shall be composed by the Attorney General and shall be a condensed statement of the ballot title prepared by him or her.

(b) For purposes of measures to be voted on throughout the state, the limitation contained in subdivision (a) shall apply to the total number of words used in the condensed statement of the ballot title and the financial impact summary prepared pursuant to Section 9087, and Section 88003 of the Government Code.

Article 4. Punchcards

13260. In approving ballots and ballot cards, the Secretary of State shall not give his or her approval unless the following are true:

(a) The size, shape, and texture of the ballot card are suitable for use in the automatic device in which it is intended to be placed.

(b) The ballot cards are so designed that they can readily be arranged with a section or ballot stub containing the serial number of the ballot and a section with places for the voter to slot or punch holes indicating his or her choices of candidates and votes on measures.

(c) If the ballot is to consist of two or more series of cards, appropriate provision may be made for identifying the related series which comprise the ballot.

13261. (a) Each ballot card shall have two stubs attached. The stubs shall be separated from the ballot card and from each other by perforated lines so that they may be readily detached.

(b) (1) One stub shall have the serial ballot number printed on it, and shall be detached from the remainder of the ballot before it is handed to the voter.

(2) The second stub shall have printed on it all of the following:

(A) The same ballot serial number.

(B) The words "This ballot stub shall be removed by a precinct board member and handed to the voter before the ballot is placed in the ballot container."

(C) The words "OFFICIAL BALLOT" in uppercase boldface type no smaller than 12-point.

(D) In primary elections, the party name, e.g., "Democratic Party," or the words "Nonpartisan Ballot," as applicable.

(E) The name of the county.

(F) The date of the election.

(G) Where not otherwise provided, instructions to the voter on how to mark the ballot with the marking device, how to vote for a candidate whose name is not printed on the ballot, and how to secure an additional ballot card if the ballot card is spoiled or marked erroneously.

(3) If the information listed in subparagraphs (A) to (G), inclusive, of paragraph (2) must also appear in one or more languages other than English under the provisions of the federal Voting Rights Act of 1965 as extended by Public Law 94-73, and there is insufficient room for all the information to be set forth in all the required languages while at the same time appearing in a type size sufficiently large to be readable, the official in charge of the election may delete information set forth in subparagraphs (E) and (F) of paragraph (2), in the order listed, until there is sufficient room.

(c) In addition to the instructions to voters printed on the ballot or ballot stub, there shall be displayed in each voting booth instructions to voters substantially in the same form and wording as appears on paper ballots. Precinct numbers may also be placed on the ballot.

13262. (a) The ballot shall contain the same material as to candidates and measures, and shall be printed in the same order as provided for paper ballots, and may be arranged in parallel columns on one or more ballot cards as required, except that the column in which the voter marks his or her choices may be at the left of the names of candidates and the designation of measures.

(b) If there are a greater number of candidates for an office or for a party nomination for an office than the number whose names can be placed on one pair of facing ballot pages, a series of overlaying pages printed only on the same, single side shall be used, and the ballot shall be clearly marked to indicate that the list of candidates for the office is continued on the following page or pages. If the names of candidates for the office are not required to be rotated, they shall be rotated by groups of candidates in a manner so that the name of each candidate shall appear on each page of the ballot in approximately the same number of precincts as the names of all other candidates.

(c) Space shall be provided on the ballot or on a separate write-in ballot to permit voters to write in names not printed on the ballot when authorized by law. The size of the voting square and the

spacing of the material may be varied to suit the conditions imposed by the use of ballot cards, provided the size of the type is not reduced below the minimum size requirements set forth in Chapter 2 (commencing with Section 13100).

(d) The statement of measure submitted to the voters may be abbreviated if necessary on the ballot, provided that each and every statement of measures on that ballot is abbreviated. Abbreviation of matters to be voted on throughout the state shall be composed by the Attorney General.

13263. The sample ballot provided pursuant to Chapter 4 (commencing with Section 13300) shall be printed in either of two formats: (a) booklet form, or (b) on one or more sheets on one or both sides. The sample ballot shall be printed on white or tinted paper and shall be a substantial facsimile of the ballot, including instructions to voters.

13264. If more than one ballot card is used at an election, different tints of cardboard stock or other suitable means may be used for each series of ballot cards to facilitate the sorting of ballots.

13265. If the number of offices and measures to be voted upon at an election cannot be accommodated on one ballot card, the elections official may, at his or her discretion, place part of the ballot upon more than one ballot card. He or she may also place part of the ballot upon the ballot card or ballot cards and the remainder upon paper, provided that a single ballot measure or the candidates for a single office may not be so split.

13266. If punchcard ballots are used for absent voting, the ballots shall be marked by pencil, or by a marking device that enables the voter to register his or her vote by punching or slotting the ballot card. Counting of punchcard ballots marked by pencil may be as with paper ballots, or a true duplicate copy of each ballot may be prepared using the same procedure as provided by Section 15271. Absent voter ballots so prepared shall be counted by the counting device.

13267. If an official ballot consisting of one or more individual ballot cards upon which the names of candidates and measures are printed is used for absent voting, the two stubs specified in Section 13261 may be eliminated from the ballot cards by printing a group style number on each card and by printing the information required by subparagraphs (C), (D), (E), (F), and (G) of paragraph (2) of subdivision (b) of Section 13261 on a separate form accompanying the official ballot. If the two stubs are not eliminated, the language required by subparagraph (B) of paragraph (2) of subdivision (b) of Section 13261 to be printed on the second stub may be omitted.

Article 5. Voting Machines

13280. The ballot labels for measures shall contain a condensed statement in, where possible, not more than 20 words of each measure to be voted on, accompanied by the words "Yes" and "No."

13281. The ballot label for measures to be voted on throughout

the state shall be composed by the Attorney General and shall be a condensed statement of the ballot title prepared by him or her.

13282. Whenever the Attorney General prepares a condensed statement of a ballot title, the Attorney General shall file a copy of the statement with the Secretary of State. The Secretary of State shall make a copy of the statement available for public examination prior to the printing of the statement on any ballot. The public shall be permitted to examine the statement for at least 20 days, and the Secretary of State may consolidate the examination requirement under this section with the public examination requirements set forth in Section 9092. Any voter may seek a writ of mandate requiring any statement, or portion thereof, to be amended or deleted. The provisions set forth in Section 9092 concerning the issuance of the writ and the nature of the proceedings shall be applicable to this section.

13283. The ballot label shall be printed by the elections official in black ink on clear material of a size that will fit the machine, of a color that may be determined by the elections official, and in as plain, clear type as the space will reasonably permit.

13284. The list of offices and candidates and the statements of measures used on the voting machines is an official ballot.

13285. The county elections official shall furnish sufficient ballot labels for the voting machines used at any election.

13286. The officers or board charged with the duty of providing ballots for any polling place shall provide the polling place with two sample ballots, which shall be arranged in the form of a diagram showing that part of the face of the voting machine that will be in use at that election.

13287. The sample ballots shall be either in full or reduced size, and shall contain suitable illustrated directions for voting on the voting machine.

13288. The ballot labels shall be delivered to the officer in charge of the voting machines at least 30 days before the election.

13289. At the presidential primary, if the voting machine will accommodate it, the county central committee election ballot shall be placed upon the voting machine together with the presidential primary ballot.

CHAPTER 4. SAMPLE BALLOTS AND VOTER PAMPHLETS

13300. (a) By at least 29 days before the primary, each county elections official shall prepare separate sample ballots for each political party and a separate sample nonpartisan ballot, placing thereon in each case in the order provided in Chapter 2 (commencing with Section 13100), and under the appropriate title of each office, the names of all candidates for whom nomination papers have been duly filed with him or her or have been certified to him or her by the Secretary of State to be voted for in his or her county at the primary election.

(b) The sample ballot shall be identical to the official ballots, except as otherwise provided by law. The sample ballots shall be printed on paper of a different texture from the paper to be used for the official ballot.

(c) One sample ballot of the party to which the voter belongs, as evidenced by his or her registration, shall be mailed to each voter entitled to vote at the primary not more than 40 nor less than 10 days before the election. A nonpartisan sample ballot shall be so mailed to each voter who is not registered as intending to affiliate with any of the parties participating in the primary election.

13301. (a) At the time the county elections official prepares sample ballots for each political party at the presidential primary, he or she shall also prepare a list of candidates for delegates for each political party. The names of the candidates for delegates of any political party shall be arranged upon the list of candidates for delegates of that party in parallel columns under their preference for President. The order of groups on the list shall be alphabetically according to the names of the persons they prefer appear upon the ballot. Each column shall be headed in boldface 10-point, gothic type as follows: "The following delegates are pledged to _____." (The blank being filled in with the name of that candidate for presidential nominee for whom the members of the group have expressed a preference.) The names of the candidates for delegates shall be printed in eight-point, roman capital type.

(b) Copies of the list of candidates for delegates of each party shall be submitted by the county elections official to the chairman of the county central committee of that party, and the county elections official shall post a copy of each list in a conspicuous place in his or her office.

13302. The county elections official shall forthwith submit the sample ballot of each political party to the chairperson of the county central committee of that party, and shall mail a copy to each candidate for whom nomination papers have been filed in his or her office or whose name has been certified to him or her by the Secretary of State, to the post office address as given in the nomination paper or certification. The county elections official shall post a copy of each sample ballot in a conspicuous place in his or her office.

13303. (a) For each election, each appropriate elections official shall cause to be printed, on plain white paper or tinted paper, without watermark, at least as many copies of the form of ballot provided for use in each voting precinct as there are voters in the precinct. These copies shall be designated "sample ballot" upon their face and shall be identical to the official ballots used in the election, except as otherwise provided by law. A sample ballot shall be mailed, postage prepaid, to each voter not more than 40 nor less than 21 days before the election.

(b) The elections official shall send notice of the polling place to each voter with the sample ballot. Only official matter shall be sent

out with the sample ballot as provided by law.

13304. The notice of the polling place which is sent to each voter as provided in Section 13303 shall inform the voter as to whether the polling place is accessible to the physically handicapped. In addition, this notice shall inform the voter of his or her rights under Section 14282, if applicable.

13305. (a) In each county, the county central committee of each qualified political party may supply to its county elections official, not less than 83 days prior to the direct primary election, a party contributor envelope or a one-page letter, in which both sides may be utilized, to be included in the mailing of the sample ballot to each of that political party's registered voters in the county. In lieu of supplying the elections official with a sufficient number of copies of the one-page letter, a county central committee may supply the elections official, not less than 83 days before the direct primary election, with the text of the letter and request the elections official to print, or cause to be printed, a sufficient number of copies of the letter to accommodate the mailing. The elections official shall notify the respective county committee of, and the committee shall reimburse the county for, any actual costs incurred by the inclusion or printing, or both. The elections official may, prior to acting pursuant to this subdivision, require the county committee to post a bond to ensure the reimbursement.

(b) Each envelope or letter shall contain a space for the name and address of the contributor, and shall contain language which informs the contributor of the manner in which the money received shall be spent. The language on the envelope or letter shall not contain words critical of any other political party.

(c) All funds received by the return of the party contributor envelopes or in response to the letters shall be kept separate from all other funds and shall be kept in a fund (account) to be established in each county. Any funds which are prohibited under federal law from being used for candidates for federal office shall be further segregated and any portion allocated to candidates shall be disbursed only to candidates for state office.

13306. Notwithstanding Sections 13300, 13301, 13303, and 13307, sample ballots and candidates' statements need not be mailed to voters who registered after the 54th day before an election, but all of these voters shall receive polling place notices and state ballot pamphlets. Each of these voters shall receive a notice in bold print that states: "Because you are a late registrant, you are not receiving a sample ballot or candidates' statements."

13307. (a) (1) Each candidate for nonpartisan elective office in any local agency, including any city, county, city and county, or district, may prepare a candidate's statement on an appropriate form provided by the elections official. The statement may include the name, age and occupation of the candidate and a brief description, of no more than 200 words, of the candidate's education and qualifications expressed by the candidate himself or herself.

However, the governing body of the local agency may authorize an increase in the limitations on words for the statement from 200 to 400 words. The statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations.

(2) The statement authorized by this subdivision shall be filed in the office of the elections official when the candidate's nomination papers are returned for filing, if it is for a primary election, or for an election for offices for which there is no primary. The statement shall be filed in the office of the elections official no later than the 88th day before the election, if it is for an election for which nomination papers are not required to be filed. If a runoff election or general election occurs within 88 days of the primary or first election, the statement shall be filed with the elections official by the third day following the governing body's declaration of the results from the primary or first election.

(3) Except as provided in Section 13309, the statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period.

(b) The elections official shall send to each voter, together with the sample ballot, a voter's pamphlet which contains the written statements of each candidate that is prepared pursuant to this section. The statement of each candidate shall be printed in type of uniform size and darkness, and with uniform spacing. The elections official shall provide a Spanish translation to those candidates who wish to have one, and shall select a person to provide that translation from the list of approved Spanish language translators and interpreters of the superior court of the county or from an institution accredited by the Western Association of Schools and Colleges.

(c) The local agency may estimate the total cost of printing, handling, translating, and mailing the candidate's statements filed pursuant to this section, including costs incurred as a result of complying with the federal Voting Rights Act of 1965, as amended. The local agency may require each candidate filing a statement to pay in advance to the local agency his or her estimated pro rata share as a condition of having his or her statement included in the voter's pamphlet. In the event the estimated payment is required, the receipt for the payment shall include a written notice that the estimate is just an approximation of the actual cost that varies from one election to another election and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements. Accordingly, the elections official is not bound by the estimate and may, on a pro rata basis, bill the candidate for additional actual expense or refund any excess paid depending on the final actual cost. In the event of underpayment, the elections official may require the candidate to pay the balance of the cost incurred. In the event of overpayment, the elections official shall prorate the excess amount among the candidates and refund the

excess amount paid within 30 days of the election.

(d) Nothing in this section shall be deemed to make any statement or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous, or libelous statements offered for printing or contained in the voter's pamphlet.

(e) Before the nominating period opens, the local agency for that election shall determine whether a charge shall be levied against that candidate for the candidate's statement sent to each voter. This decision shall not be revoked or modified after the seventh day prior to the opening of the nominating period. A written statement of the regulations with respect to charges for handling, packaging, and mailing shall be provided to each candidate or his or her representative at the time he or she picks up the nomination papers.

(f) For purposes of this section and Section 13310, the board of supervisors shall be deemed the governing body of judicial elections.

13308. In addition to the restrictions set forth in Section 13307, any candidate's statement submitted pursuant to Section 13307 by a candidate for judicial office shall be limited to a recitation of the candidate's own personal background and qualifications, and shall not in any way make reference to other candidates for judicial office or to another candidate's qualifications, character, or activities. The elections official shall not cause to be printed or circulated any statement which the elections official determines is not so limited or which includes any reference prohibited by this section.

13309. (a) Notwithstanding Section 13307, if a candidate alleges to be indigent and unable to pay in advance the requisite fee for submitting a candidate statement, the candidate shall submit to the local agency a statement of financial worth to be used in determining whether or not he or she is eligible to submit a candidate statement without payment of the fee in advance.

(b) The statement of financial worth required by this section shall be submitted by the candidate together with his or her candidate statement in accordance with the deadline specified in Section 13307. The statement of financial worth form shall be furnished by the local agency, and may include questions relating to the candidate's employer, income, real estate holdings, tangible personal property, and financial obligations. The candidate shall certify the content of the statement as to its truth and correctness under penalty of perjury. The candidate shall also sign a release form of the candidate's most recent federal income tax report.

(c) Upon receipt of a statement of financial worth, a determination shall be made by the local agency of whether or not the candidate is indigent. The local agency shall notify the candidate of its findings.

(d) If it is determined that the candidate is not indigent, the candidate shall, within three days of the notification, excluding Saturdays, Sundays, and state holidays, withdraw the statement or pay the requisite fee. If the candidate fails to respond within the time prescribed, the local agency shall not be obligated to print and mail

the statement.

(e) If the local agency determines that the candidate is indigent, the local agency shall print and mail the statement.

(f) Nothing in this section shall prohibit the elections official from billing the candidate his or her actual pro rata share of the cost after the election.

13310. Prior to the nomination period for an election, the governing body of the local agency conducting the election may determine that Section 13307 is inapplicable to that election. This section shall become operative only if the United States Supreme Court or the California Supreme Court rules that candidates (other than indigent candidates) may not be required to pay for candidates' statements authorized pursuant to Section 13307.

13311. Notwithstanding the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), the statements filed pursuant to Section 13307 shall remain confidential until the expiration of the filing deadline.

13312. Each voter's pamphlet prepared pursuant to Section 13307 shall contain a statement in the heading of the first page in heavy-faced gothic type, not smaller than 10-point, that: (a), the pamphlet does not contain a complete list of candidates and that a complete list of candidates appears on the sample ballot (if any candidate is not listed in the pamphlet), and that (b), each candidate's statement in the pamphlet is volunteered by the candidate, and (if printed at the candidate's expense) is printed at his or her expense.

13313. (a) Not less than 10 calendar days before the elections official submits the official voter's pamphlet referred to in Section 13307 for printing, the elections official shall make a copy of the voter's pamphlet available for public examination in the elections official's office. Any person may obtain a copy of the voter's pamphlet from the elections official for use outside of the elections official's office. The elections official may charge a fee to any person obtaining a copy of the material, and the fee shall not exceed the actual cost incurred by the elections official in providing the copy.

(b) (1) During the 10-calendar-day examination period provided by this section, any voter of the jurisdiction in which the election is being held, or the elections official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the material in the voter's pamphlet to be amended or deleted. A peremptory writ of mandate or an injunction shall issue only upon clear and convincing proof of both of the following: (A) that the material in question is false, misleading, or inconsistent with the requirements of this chapter; and (B) that issuance of the writ or injunction will not substantially interfere with the printing or distribution of official election materials as provided by law.

(2) With regard to a writ of mandate or injunction sought pursuant to this subdivision, the elections official shall be named as

respondent and the candidate who authored the material in question shall be named as the real party in interest. In the case of the elections official bringing the mandamus or injunctive action pursuant to this subdivision, the board of supervisors of the county shall be named as the respondent and the candidate who authored the material in question shall be named as the real party in interest.

13314. (a) (1) Any voter may seek a writ of mandate alleging that an error or omission has occurred, or is about to occur, in the placing of any name on, or in the printing of, a ballot, sample ballot, voter pamphlet, or other official matter, or that any neglect of duty has occurred, or is about to occur.

(2) A peremptory writ of mandate shall issue only upon proof of both of the following: (A) that the error, omission, or neglect is in violation of this code or the Constitution, and (B) that issuance of the writ will not substantially interfere with the conduct of the election.

(3) The action or appeal shall have priority over all other civil matters.

(b) Venue for a proceeding under this section shall be exclusively in Sacramento County in any of the following cases:

(1) The Secretary of State is named as a real party in interest or as a respondent.

(2) A candidate for statewide elective office is named as a party.

(3) A statewide measure that is to be placed on the ballot is the subject of the proceeding.

13315. The officer charged with the duty of providing sample ballots for any election at which absent voter ballots may be cast shall cause to be printed on the envelope containing the sample ballot in heavy-faced gothic type, not smaller than 12-point, the following:

Notice: Absent Voter Ballot Application Enclosed.

13316. Notwithstanding any other provision of law to the contrary, a county, city, city and county, or district using voting machines may use reasonable facsimiles of the sample ballots sent the voters of the local jurisdiction as absentee ballots.

13317. Notwithstanding any other provision of law to the contrary, a county, city, city and county, or district using vote tabulating devices may use reasonable facsimiles of the sample ballots sent the voters of the local jurisdiction as absentee ballots.

DIVISION 14. ELECTION DAY PROCEDURES

CHAPTER 1. PRIVILEGES OF VOTERS

14000. (a) If a voter does not have sufficient time outside of working hours to vote at a statewide election, the voter may, without loss of pay, take off enough working time that, when added to the voting time available outside of working hours, will enable the voter to vote.

(b) No more than two hours of the time taken off for voting shall be without loss of pay. The time off for voting shall be only at the

beginning or end of the regular working shift, whichever allows the most free time for voting and the least time off from the regular working shift, unless otherwise mutually agreed.

(c) If the employee on the third working day prior to the day of election, knows or has reason to believe that time off will be necessary to be able to vote on election day, the employee shall give the employer at least two working days' notice that time off for voting is desired, in accordance with this section.

14001. Not less than 10 days before every statewide election, every employer shall keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of Section 14000.

14002. Sections 14000 and 14001 shall apply to all public agencies and the employees thereof, as well as to employers and employees in private industry.

14003. Except in time of war or public danger, no voter is obliged to perform militia duty on any election day.

CHAPTER 2. PRECINCT SUPPLIES

14100. The county elections official, in providing the materials required by this division, shall not be required to utilize the services of the county purchasing agent.

14101. (a) On or before the first day of January of each even-numbered year, the Secretary of State and the Attorney General shall prepare a brief digest containing the substance of those provisions of this code and of other statutes that pertain to the duties of precinct officers during the casting and the canvassing of the vote. This digest shall contain in each case a reference to the section of this code or other statute, by reference to which further examination of its provisions may be made.

(b) Immediately upon the completion of the digest set forth in subdivision (a), the Secretary of State shall send a copy to each county elections official.

14102. (a) (1) For each statewide election, the elections official shall provide a sufficient number of official ballots in each precinct to reasonably meet the needs of the voters in that precinct on election day using the precinct's voter turnout history as the criterion, but in no case shall this number be less than 75 percent of registered voters in the precinct, and for absentee and emergency purposes shall provide the additional number of ballots that may be necessary.

(2) The number of party ballots to be furnished to any precinct for a primary election shall be computed from the number of voters registered in that precinct as intending to affiliate with a party, and the number of nonpartisan ballots to be furnished to any precinct shall be computed from the number of voters registered in that precinct without statement of intention to affiliate with any of the

parties participating in the primary election.

(b) For all other elections, the elections official shall provide a sufficient number of official ballots in each precinct to reasonably meet the needs of the voters in that precinct on election day, using the precinct's voter turnout history as the criterion, but in no case shall this number be less than 75 percent of the number of registered voters in the precinct, and for absentee and emergency purposes shall provide the additional number of ballots that may be necessary.

14103. Before the opening of the polls at any election, the elections official shall cause to be delivered to the precinct board in each precinct in which the election is to be held, the proper number of ballots of the kinds to be used in that precinct. The ballots shall be delivered in sealed packages with marks on the outside clearly designating the precinct or polling place for which they are intended, and the number of ballots enclosed.

14104. The elections official shall prepare a receipt for each polling place, enumerating the packages and stating the date of delivery to the precinct board member. The precinct board member shall sign the receipt upon receipt of the packages. The signed receipt shall be returned to the elections official. Messengers may be employed to insure the safe and expeditious delivery of the ballots. The elections official shall fix a reasonable compensation for the services of these messengers, to be paid in the same manner as other election expenses.

14105. The elections official shall furnish to the precinct officers all of the following:

(a) Printed copies of the indexes.

(b) Necessary printed blanks for the roster, tally sheets, lists of voters, declarations, and returns.

(c) Envelopes in which to enclose returns.

(d) Not less than six nor more than 12 instruction cards to each precinct for the guidance of voters in obtaining and marking their ballots. On each card shall be printed necessary instructions and the provisions of Sections 14225, 14279, 14280, 14287, 14291, 14295, 15051, 15054, 15055, 15059, 15060, 15061, 18370, 18380, 18403, 18563, and 18569.

(e) A digest of the election laws with any further instructions the county elections official may desire to make.

(f) An American flag of sufficient size to adequately assist the voter in identifying the polling place. The flag is to be erected at or near the polling place on election day.

(g) A ballot container, properly marked on the outside indicating its contents.

(h) When it is necessary to supply additional ballot containers, these additional containers shall also be marked on the outside, indicating their contents.

(i) Sufficient ink pads and stamps for each booth. The stamps shall be one solid piece and shall be made so that a cross (+) may be made with either end. If ballots are to be counted by vote tabulating

equipment, an adequate supply of other approved voting devices shall be furnished. All voting stamps or voting devices shall be maintained in good usable condition.

(j) When a candidate or candidates have qualified to have his or her or their names counted pursuant to Chapter 7 (commencing with Section 15350) of Division 15, a sufficient number of ink pens or pencils in the voting booths for the purpose of writing in on the ballot the name of the candidate or candidates.

(k) A sufficient number of cards to each polling place containing the telephone number of the office to which a voter may call to obtain information about his or her precinct location. The card shall state that the voter may call collect during polling hours.

(*l*) An identifying badge or insignia for each member of the precinct board. The member shall print his or her name and the precinct number thereon and shall wear the badge or insignia at all times in the performance of duties, so as to be readily identified as a member of the precinct board by all persons entering the polling place.

(m) Facsimile copies of the ballot containing ballot measures and ballot instructions printed in Spanish or other languages as provided in Section 14201.

(n) Sufficient copies of the notices to be posted on the indexes used at the polls. The notice shall read as follows: "This index shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14297 of the Elections Code. Any person who removes, tears, marks, or otherwise defaces this index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted, is guilty of a misdemeanor."

(o) A roster of voters for each precinct in the form prescribed in Section 14107.

(p) In addition, the elections official may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures to the precinct officers.

This section shall become operative on January 1, 1990.

14105.5. Members of the precinct board shall not display, distribute, or make available at the polling place any materials other than those required pursuant to this division without the express approval of the county elections official.

(Added by Stats. 1994, Ch. 1189.)

14106. In addition to the materials required by Section 14105, the elections official shall provide signs, or materials for making signs, advising voters that an election has been canceled pursuant to Section 8026 due to the death of the candidate-incumbent and that a special election will be held to fill the vacancy.

14107. (a) The roster to be kept by each precinct board shall be substantially in the following form:

Roster

of the _____ election held in the _____ precinct _____ district, County of _____, on the _____ day of _____, 19__.

Following are the voters of above precinct desiring to vote under Sections 14216, 14218, 14278, and 14284 of the Elections Code:

No.	Signature of voter	Residence of voter
1		
2		
3		
etc.		

We hereby certify that all voters whose signatures appear hereinbefore in this roster voted this day excepting the following who, after signing the roster, failed to vote or were challenged and denied the right to vote.

No.	Name	No.	Name

We further certify that the number of voters who voted in this precinct at this election is _____, and that the above list of voters, less those who did not vote as enumerated, constitutes the roster of this precinct for this election.

We further certify that the total number of official ballots received, voted, rejected, spoiled and canceled, found in the ballot container and the number accounted for is as indicated on the ballot statement.

We further certify that the assisted voters list and challenge list show a complete list of all voters assisted or challenged.

Clerk	Inspector
Clerk	Judge
Clerk	Judge

All members of the precinct board shall sign this certificate.

(b) When votes are counted at the precinct, all members of the board shall also sign the certificate of performance prescribed in Section 15063.

14108. In addition to the provisions contained in Section 14107, the roster shall contain, in no less than 6-point type at the head of each page, the following words: "WARNING: It is a crime punishable by imprisonment in the state prison or in county jail for anyone to fraudulently vote, fraudulently attempt to vote, vote more than once, attempt to vote more than once, impersonate a voter, or attempt to impersonate a voter (Elections Code Sec. 18560)."

14109. Notwithstanding Sections 14105 and 14107, the roster to be

kept by each precinct board may be in a form of an index to the affidavits of registration for that precinct, in which case the index shall provide space of sufficient size to allow each voter to sign his or her name pursuant to Section 14216.

14110. All officers required by law to designate polling places shall furnish the polling places with a sufficient number of places, booths, or compartments, at or in which voters may conveniently mark their ballots, so that they may be screened from the observation of others. Each place, compartment, or booth shall be so adjusted as to conceal from any observation the voter's marking of the ballot. The number of voting booths or compartments shall be determined by the officer conducting the election.

This section shall become operative on January 1, 1990.

14111. Translations of the ballot measures and ballot instructions, as required by Section 14201, shall be provided by a person selected by the elections official from the list of approved translators and interpreters of the superior court of the county or from an institution accredited by the Western Association of Schools and Colleges.

14112. All voting equipment shall be transferred to the polling places in charge of an authorized official, who shall certify to their delivery in good order.

14113. Ballots and other election supplies appropriate to the system shall be furnished as provided for other precincts except that:

(a) No rubber stamps or ink pads shall be supplied when only ballots to be punched are used.

(b) Ballots shall be suitable to be punched or slotted in the marking device and subsequently counted on an approved mechanical or electronic counting device.

(c) The containers of the ballots shall be of a type so that they will adequately protect the ballots and that they can be opened without mutilation.

CHAPTER 3. PROCEDURES AT POLLS

Article 1. Election Day Posting Requirements

14200. On the day of an election, the precinct board shall post at least one instruction card in each booth or compartment provided for the preparation of ballots, and not less than three instruction cards at other places in and about the polling place.

14201. (a) (1) The precinct board shall post, in a conspicuous location in the polling place, at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish. Facsimile ballots shall also be printed in other languages and posted in the same manner if a significant and substantial need is found by the elections official.

(2) In those counties which are required under the provisions of the federal Voting Rights Act of 1965, as extended by Public Law 94-73, to furnish ballots in other than the English language, the

posting of the facsimile ballot in that particular language shall not be required.

(3) This subdivision shall remain in effect until the Secretary of State makes the determinations and findings required by this section.

(b) In counties where the Secretary of State has determined that it is appropriate, each precinct board shall post, in a conspicuous location in the polling place, at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish. If the Secretary of State determines that it is appropriate to post the election materials in Spanish in only certain precincts in the county, the material shall be posted in the polling places situated in those precincts. Facsimile ballots shall also be printed in other languages and posted in the same manner if a significant and substantial need is found by the Secretary of State.

(c) In determining whether it is appropriate to post the election materials in Spanish or other languages, the Secretary of State shall determine the number of residents of voting age in each county and precinct who are members of a single language minority, and who lack sufficient skills in English to vote without assistance. If the number of these residents equals 3 percent or more of the voting age residents of a particular county or precinct, or in the event that interested citizens or organizations provide the Secretary of State with information which gives the Secretary of State sufficient reason to believe a need for the furnishing of facsimile ballots, the Secretary of State shall find a need to post at least one facsimile copy of the ballot with the ballot measures and ballot instructions printed in Spanish or other applicable language in the affected polling places.

(d) The Secretary of State shall make the determinations and findings set forth in subdivisions (b) and (c) by January 1 of each year in which the Governor is elected.

(e) In those precincts where ballots printed in a language other than English are available for use by the voters at the polls, the posting of a facsimile ballot in that particular language shall not be required.

(f) It is the intent of the Legislature that non-English-speaking citizens, like all other citizens, should be encouraged to vote. Therefore, appropriate efforts should be made on a statewide basis to minimize obstacles to voting by citizens who lack sufficient skill in English to vote without assistance.

14202. (a) Before opening the polls, the precinct board shall post in separate, convenient places at or near the polling place, and of easy access to the voters, not less than two of the copies of the index to the affidavits of registration for that precinct.

(b) In any county in which tabulating equipment is used to produce the index of registration, the copies of the index posted pursuant to this section shall be by street addresses in numerical order, unless otherwise provided by Section 2192.

14203. The precinct officer shall post the signs required by Section 14106 in plain view within each voting booth or

compartment whenever an election has been canceled pursuant to Section 8026.

Article 2. Election Day Procedures

14210. The members of each precinct board shall distribute the duties devolving upon the precinct board, which are in addition to their individual duties, in a manner they deem most advantageous.

14211. The polling places shall be arranged so that neither the ballot containers nor the voting booths or compartments shall be hidden from the view of those present.

14212. The polls shall be open at 7 a.m. of the day of any election, and shall be kept open until 8 p.m. of the same day, when the polls shall be closed, except as provided in Section 14401.

14213. Before the precinct board receives any ballots, it shall proclaim aloud at the place of election that the polls are open.

14214. Voting shall commence as soon as the polls are opened and shall be continued during the time the polls remain open.

14215. Before receiving any ballots, the precinct board, in the presence of any persons assembled at the polling place, shall open and exhibit and close the ballot container or containers. Thereafter, the ballot container or containers shall not be removed from the polling place or presence of the bystanders until all the ballots are counted, nor opened until after the polls are finally closed.

14216. Any person desiring to vote shall announce his or her name and address in an audible tone of voice, and when one of the precinct officers finds the name in the index, the officer shall in a like manner repeat the name and address. The voter shall then write his or her name and residence address or, if the voter is unable to write, shall have the name and residence address written by another person on a roster of voters provided for that purpose, whereupon a challenge may be interposed as provided in this article.

14217. (a) If the precinct board is unable to find a voter's name upon the index of registration and is unable to call the elections official's office on behalf of the voter, the precinct board shall furnish the voter a copy of the card containing the telephone number of the elections official and direct the voter to the nearest telephone.

(b) The elections official shall assign a sufficient number of qualified persons in the elections official's office who shall receive and answer the telephone calls.

14218. If the surname of any person offering to vote has been changed since the person has registered, the person shall sign his or her name as it was before the change and also the appropriate name as it is at the time the person votes, indicating on the roster on the same line by brackets or other means that the two names are the name of one person.

14219. The precinct board shall provide, upon request, to any voter for use in the voting booth or compartment, a copy of the facsimile ballot containing ballot measures and instructions printed

in Spanish or in other languages, as required by Section 14201, unless sample ballots and ballots for voting are already being provided in that language under the federal Voting Rights Act of 1965, as amended by Public Law 94-73.

14220. At any election, a majority of the members of any precinct board shall be present at the polling place at all times while the polling place is open.

14221. Only voters engaged in receiving, preparing, or depositing their ballots and persons authorized by the precinct board to keep order and enforce the law may be permitted to be within the voting booth area before the closing of the polls.

14222. Nothing contained in this code shall prevent a voter from being accompanied by a child or children who are under the age of 13 years while the voter is within the voting booth area, provided that: (a) the child or children are under the voter's care, and (b) the voter is unable to find an alternative method of temporary care for the child or children during the time that the voter is voting.

14223. (a) Only members of the precinct board, and persons while signing their names on the roster, shall be permitted, during the hours within which voting is in progress, to sit at the desk or table used by the precinct board.

(b) Any person may inspect the roster while voting is in progress and while votes are being counted. However, this shall not be done at a time or in a manner which will impede, interfere, or interrupt the normal process of voting.

14224. Except as provided in Section 14222, voting booths or compartments shall not be occupied by more than one person at a time, unless the voter is eligible under the assisted-voter provisions. Voters shall not remain in or occupy the booths or compartments longer than is necessary to mark their ballots, which shall not exceed 10 minutes. However, where no other voter would be inconvenienced, a longer period shall be allowed.

14225. Members of the precinct board shall not deposit in the ballot container any ballot from which the slip containing the number of the ballot has not been removed by a member of the precinct board and handed to the voter. This section does not apply to voting by absent voter ballot.

14226. A place where the primary purpose of the establishment is the sale and dispensation of alcoholic beverages shall not be used as a polling place. A polling place shall not be connected by a door, window, or other opening with any place where any alcoholic beverage is sold or dispensed while the polls are open.

14227. Any member of the precinct board, when using a language other than English at the polls, shall communicate with voters in that language only as he or she would be lawfully permitted to communicate in English under the code. The member shall be subject to like penalty for any illegal communication as if it had occurred in English.

Article 3. Challenging a Voter

14240. (a) A person offering to vote may be orally challenged within the polling place only by a member of the precinct board upon any or all of the following grounds:

(1) That the voter is not the person whose name appears on the index.

(2) That the voter is not a resident of the precinct.

(3) That the voter is not a citizen of the United States.

(4) That the voter has voted that day.

(5) That the voter is presently on parole for the conviction of a felony.

(b) On the day of the election no person, other than a member of a precinct board or other official responsible for the conduct of the election, shall challenge or question any voter concerning the voter's qualifications to vote.

(c) If any member of a precinct board receives, by mail or otherwise, any document or list concerning the residence or other voting qualifications of any person or persons, with the express or implied suggestion, request, or demand that the person or persons be challenged, the board member shall first determine whether the document or list contains or is accompanied by evidence constituting probable cause to justify or substantiate a challenge. In any case, before making any use whatever of such a list or document, the member of the precinct board shall immediately contact the elections official, charged with the duty of conducting the election, and describe the contents of the document or list and the evidence, if any, received bearing on voting qualifications. The elections official shall advise the members of the precinct board as to the sufficiency of probable cause for instituting and substantiating the challenge and as to the law as herein provided, relating to hearings and procedures for challenges by members of the precinct board and determination thereof by a precinct board. The elections official may, if necessary, designate a deputy to receive and answer inquiries from precinct board members as herein provided.

14241. A piece of mailed matter returned undelivered by the post office shall not be accepted or used as evidence upon which to initiate a challenge as to residency by any member of the precinct board unless other evidence or testimony is also presented, nor shall the mailed matter, standing alone without other evidence or testimony, be accepted as evidence by the precinct board in determining a challenge.

14242. The ground for challenge set forth in paragraph (2) of subdivision (a) of Section 14240 shall not apply to any person duly registered as a voter in any precinct in California and moving from that precinct within 28 days prior to an election.

14243. If the challenge is on the ground that the person seeking to vote is not the person whose name appears on the index, a member of the precinct board shall tender the following oath: "You

do swear (or affirm) that you are the person whose name is entered on the index."

14244. If the challenge is on the ground that the person seeking to vote is not a resident of the precinct, the person challenged shall be sworn to answer questions, and after having been sworn, a member of the precinct board shall ask that person: "Are you a resident of this precinct?" If the answer to the question is "Yes," without significant qualification, no other questions shall be asked.

14245. If the challenge is on the ground that the person challenged has already cast a ballot for this election, a member of the precinct board shall tender to the person challenged this oath:

"You do swear (or affirm) that you have not previously voted in this election, either by absentee ballot or at a polling place."

14246. If the challenge is on the ground either that the person challenged is not the person whose name appears on the index, or that he or she has voted that day, the challenge shall be determined in favor of the person challenged if that person takes the oath as set forth either in Section 14243 or 14245.

14247. Challenges of voters that they are not residents of the precinct or citizens of the United States shall be tried and determined by the precinct board at the time of the challenge. The precinct board may, at its discretion, also request any other person, present in the polling place to be sworn and answer questions, whom the board believes may have knowledge or information concerning the facts of the challenge.

14248. Before administering an oath to a person regarding his or her place of residence, a member of the precinct board shall read to the person challenged, the rules prescribed by Section 14249 and Article 2 (commencing with Section 2020) of Chapter 1 of Division 2.

14249. If any person challenged refuses to take the oaths tendered, or refuses to be sworn and to answer the questions concerning the matter of residence, that person shall not be allowed to vote.

14250. The precinct board, in determining the place of residence of any person, shall be governed by the rules set forth in Article 2 (commencing with Section 2020) of Chapter 1 of Division 2.

14251. Any doubt in the interpretation of the law shall be resolved in favor of the challenged voter.

14252. The precinct board shall compile a list showing all of the following:

(a) The name and address of each person challenged.

(b) The name, address, and any other identification as a voter, of each person offering information concerning any person's qualifications to vote, or testifying pursuant to Section 14247, together with the name and address and any other identification of the person about whom the information or testimony is given.

(c) The grounds of each challenge.

(d) The determination of the board upon the challenge, together

with any written evidence pertaining thereto.

(e) If evidence has been presented to the board requesting challenges, the evidence shall be returned to the elections official responsible for the conduct of the election.

14253. In the event that the precinct board determines that persistent challenging of voters is resulting in a delay of voting sufficient to cause voters to forego voting because of insufficient time or for fear of unwarranted intimidation, the board shall discontinue all challenges, and so note on the roster.

Article 4. Issuing Ballots and Voting

14270. The procedure at the polls where voting is conducted pursuant to this division shall be the same as at other polling places, except as provided in this article.

14271. After the opening of the polls, the precinct board shall not allow any voter to enter the voting booth until it ascertains that he or she is entitled to vote.

14272. Before each voter enters the voting booth, the precinct board shall inform him or her how to operate the voting device. If a marking or punching device is used, the voter shall be instructed to use only that device. The voter shall also be instructed how to fold the ballot and place it in the envelope. If any voter, after entering the booth, asks for information regarding the operation of the machine or device, the precinct board shall give him or her the information.

14273. The device for marking the ballot may be handed to the voter with his or her ballot before the voter goes into the voting booth, and shall be returned to the precinct board after he or she has finished marking his or her ballot.

14274. In any election where ballots are to be counted both manually and by electromechanical tabulating devices, the marking device used for marking ballots to be counted electromechanically may be used for marking ballots to be counted manually.

14275. Before leaving the voting booth or compartment, the voter shall fold or place the ballot card in the envelope so that the ballot markings of the voter will not be exposed, and the ballot stub will be outside of the envelope or other container, to be removed by the precinct board.

14276. After his or her ballot is marked, a voter shall not show it to any person in such a way as to reveal its contents.

14277. The voter shall hand the folded ballot or the envelope containing the ballot to a precinct board member, who shall remove the ballot stub, hand it to the voter, and deposit the ballot in the ballot container. If the ballot is to be transferred from the envelope to the ballot container, care shall be taken not to disclose the markings of the voter on the ballot.

14278. The precinct board shall give each voter only one ballot, as provided in Section 13102.

14279. Unless otherwise provided by law, no person shall apply for or receive any ballot at any precinct other than that in which the voter is entitled to vote.

14280. Unless otherwise provided by law, a voter shall not receive a ballot from any person other than one of the precinct officers. No person other than a precinct officer or officer authorized by law shall deliver a ballot to any voter.

14281. On receiving a ballot, the voter shall forthwith retire alone to one of the booths or compartments provided, and mark the ballot, unless Section 14222 or 14224 is applicable.

14282. (a) When a voter declares under oath, administered by any member of the precinct board at the time the voter appears at the polling place to vote, that the voter is then unable to mark a ballot, the voter shall receive the assistance of not more than two persons selected by the voter, other than the voter's employer, an agent of the voter's employer, or an officer or agent of the union of which the voter is a member.

(b) No person assisting a voter shall divulge any information regarding the marking of the ballot.

(c) In those polling places that are inaccessible under the guidelines promulgated by the Secretary of State for accessibility by the physically handicapped, a physically handicapped person may appear outside the polling place and vote a regular ballot. The person may vote the ballot in a place that is as near as possible to the polling place and that is accessible to the physically handicapped. A precinct board member shall take a regular ballot to that person, qualify that person to vote, and return the voted ballot to the polling place. In those precincts in which it is impractical to vote a regular ballot outside the polling place, absentee ballots shall be provided in sufficient numbers to accommodate physically handicapped persons who present themselves on election day. The absentee ballot shall be presented to and voted by a physically handicapped person in the same manner as a regular ballot may be voted by that person outside the polling place.

14283. The precinct officers shall keep a list of the voters who have been assisted in marking their ballots. The list of assisted voters shall be returned to the elections official and preserved with other election materials and records.

14284. (a) All ballots, except absent voter ballots, shall be marked only with the marking device provided by law.

(b) To prevent voters from marking their ballots with a pen or pencil, at the time of delivering a ballot to a voter, the precinct officer shall distinctly state that the voter shall mark the ballot with the device provided by law or the ballot will not be counted.

14285. Where two or more candidates for the same office are to be elected, and the voter desires to vote for candidates for that office, the voter shall, by using the provided marking device, place a mark in the voting square, rectangle, or other specific voting space following the names of the candidates for that office for whom the

voter intends to vote, not exceeding, however, the number of candidates to be elected.

14286. When a measure is submitted to the voters, the voter shall place a mark on the ballot in the appropriate space opposite the answer the voter desires to give as to that measure. The voter, in marking the ballot, shall use the marking device provided.

14287. No voter shall place any mark upon a ballot that will make that ballot identifiable.

14288. If a voter spoils or defaces a ballot, the voter shall at once return it to the ballot clerk and receive another ballot. A voter shall not receive more than a total of three ballots, including his or her original ballot, in this manner.

14289. If a voter spoils or defaces a ballot, he or she shall at once return it to the ballot clerk and receive another. A voter shall not receive more than a total of three ballots, including his or her original ballot, in this manner.

14290. The precinct board shall immediately cancel, without unfolding them, all the spoiled ballots returned. The board shall write the word "spoiled" on the back of each spoiled ballot in ink or indelible pencil and return the spoiled ballots with the unused ballots.

14291. After the ballot is marked, a voter shall not show it to any person in such a way as to reveal its contents.

14292. Before leaving the voting booth or compartment, the voter shall fold the ballot according to the instructions on it, so that the marks on its face are not visible and only the number on the ballot and the top margin are exposed.

14293. Having folded the ballot, the voter shall deliver it folded to a member of the precinct board, who shall then separate the slip containing the number from the ballot, hand the slip to the voter, and deposit the ballot in the ballot box in the presence of the voter.

14294. At all elections, a member of the precinct board shall mark, on one of the copies of the index posted at or near the polling place, the name of each person who has voted, by drawing a line through the name of the voter, with a pen or indelible pencil. The board member shall mark off the names at least once each hour, to and including 6 p.m. In all counties not using the index roster, the board member shall draw a line under the last name signed in the roster at 6 p.m. or at the time of discontinuation of this procedure, whichever occurs last.

14295. No voter shall deliver to any member of the precinct board any ballot other than the one received from the board member.

14296. Any voter who does not vote the ballot he or she has received, shall, before leaving the polling place, return it to the board member having charge of the ballots, who shall immediately cancel it. All canceled ballots shall be returned to the ballot clerk in the same manner as spoiled ballots.

14297. No later than the time at which the voter delivers the

voted ballot, a precinct board member in charge of the index shall write in the space opposite the name of the voter the line number designating the position of the name on the roster. In those counties using the combined index roster, the voter's name shall be crossed off of the index in lieu of numbering.

14298. (a) The precinct board shall maintain the copies of the index posted during the whole time of voting. These copies shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14294.

(b) A member of the precinct board shall post a notice on each index which reads as follows: "This index shall not be marked in any manner except by a member of the precinct board acting pursuant to Section 14294. Any person who removes, tears, marks, or otherwise defaces this index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted, is guilty of a misdemeanor."

14299. If a precinct board is unable to furnish a ballot to a qualified voter, because there is an insufficient number of ballots at the precinct, the elections official shall deliver to the precinct additional ballots to ensure that all eligible voters can cast their ballots by 10 p.m. on election day.

Article 5. Provisional Voting

14310. (a) At all elections, a voter claiming to be properly registered, and whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot.

(b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for absentee ballots, and shall be completed in the same manner as absentee envelopes.

(c) (1) During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast.

(2) Provisional ballots shall not be included in any semiofficial or official canvass, except upon: (A) the elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or (B) the order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this section regarding his or her own ballot at any time prior to completion of the official canvass. Any

judicial action or appeal shall have priority over all other civil matters.

(3) A precinct board member shall notify the voter of the contents of this subdivision at the time of receiving the provisional ballots.

(d) The Secretary of State may adopt appropriate regulations for purposes of ensuring the uniform application of this section.

(e) This section shall not apply to the situation described in Section 2227. This section shall apply to any absent voter described by Section 3015 who is unable to surrender his or her unvoted absent voter's ballot.

(f) Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted.

Article 6. Write-in Voting

14320. Nothing contained in this code shall prevent a voter from using an ink pen or pencil for the purpose of writing in on the ballot the name of any candidate the voter desires.

14321. When marking a ballot, the voter shall use the stamp or other marking device to place a mark in the voting square, rectangle, or other specific voting space following the name of every candidate for whom the voter intends to vote. This mark shall be counted as a vote for that person. A vote for a candidate or person whose name is not printed on the ballot may be cast by writing in a name for that office in the blank space left for that purpose. Only a vote cast for a qualified write-in candidate shall be counted.

CHAPTER 4. CLOSING OF THE POLLS

Article 1. General Provisions

14400. At any election, all members of the precinct board shall be present at the closing of the polls.

14401. When the polls are closed, the precinct board shall proclaim that fact aloud at the place of election. After the proclamation no ballot shall be received. However, if at the hour of closing there are any other voters in the polling place, or in line at the door, who are qualified to vote and have not been able to do so since appearing, the polls shall be kept open a sufficient time to enable them to vote.

14402. Any one who arrives at the polling place after the time provided for closing the polls shall not be entitled to vote, even though the polls are open when the voter arrives.

14403. Immediately upon the closing of the polls and before any ballot is taken from any of the ballot containers, the precinct board member shall, in the presence of all persons in the room who may desire to observe them, proceed to deface every unused ballot by drawing across its face, in ink or indelible pencil, two lines which shall cross each other, the cross to be more than three inches square.

The precinct board member shall thereupon, immediately and before any ballots are taken from any ballot container, place all defaced ballots within an envelope or other receptacle provided for that purpose.

14404. (a) In lieu of the procedure outlined in Section 14403, the unused ballots may be defaced by tearing or cutting in such a manner that it is apparent that the ballot has been intentionally destroyed to prevent its use. If the alternate method of destruction is used, it will be done in such a manner that the serial number of the ballots is retained for the purposes of reconciliation.

(b) In lieu of the procedure outlined in subdivision (a), the precinct board member shall, immediately upon the close of the polls and before any ballot is taken from any of the containers, place all of the unused ballots into a special container provided for that purpose. A tamperproof seal containing spaces for entering the total number of unused ballots enclosed, the beginning and ending serial numbers thereof, and signature lines for all members of the precinct board following a statement certifying that all of the ballots were placed in the container in their presence and the information on the seal is true and correct, shall be provided. After signing the seal, it shall be placed on the container in a manner so that the container cannot be opened without tearing the seal.

14405. (a) The members of the precinct board shall account for the ballots delivered to them by returning a sufficient number of unused ballots to make up, when added to the number of official ballots cast and the number of spoiled and canceled ballots returned, the number of ballots given to them. The officers receiving returned ballots shall compel this accounting.

(b) The precinct board shall complete the roster as required in Section 14107, and shall also complete and sign the certificate of performance prescribed in Section 15063, if that section applies.

14406. (a) Immediately upon the arrival of the hour when the polls are required by law to be closed on election day, the elections official conducting the election, shall openly, in the elections official's main office, in the presence of any persons who are present to observe, according to the procedure set forth in either Section 14403 or 14404, proceed to deface every unused ballot remaining in the control of the elections official. The elections official shall forthwith make and file an affidavit, in writing, as to the number of ballots destroyed.

(b) In lieu of the procedure provided for in subdivision (a), the elections official may follow the procedure set forth in subdivision (b) of Section 14404, except that the tamperproof seal shall be signed by the elections official and at least one deputy or assistant elections official or registrar. The sealed container shall then be placed, with the sealed containers containing unused ballots from the precincts, in a security area by the elections official until disposition is made pursuant to Section 17301 or 17302.

Article 2. Elections Using Voting Systems

14420. Any ballot that is torn, bent, or mutilated shall be segregated in the manner directed by the elections official. The ballot shall be placed within the same sealed container as provided for other voted ballots in Section 14423, and shall be delivered with the voted ballots to the counting place, where a duplicate shall be prepared as provided in Section 15270. Any ballot that is marked in a manner so as to identify the voter shall be marked "Void" and shall be placed in the container for void ballots.

14421. (a) As soon as the polls are closed, the precinct board shall remove the voted ballots from the ballot container, and take them out of the envelopes. Where the envelope is also the write-in ballot, and a write-in vote has been registered thereon, the ballot card shall not be separated from the envelope until the validity of the write-in vote has been checked and the used envelope and its related ballot card have been cross-identified pursuant to Section 14422. If two or more separate ballot cards have been used in the election, the precinct board shall sort them into groups, each of which shall contain the same series of ballot cards.

(b) After completing the action described in subdivision (a), the precinct board shall count the number of ballot cards in each group, and certify the number of votes cast on the voting roster as provided by Section 14105. If there is any discrepancy between the number of voters listed in the roster and the number of ballots voted, this fact shall be noted with an explanation of the difference and signed by all the members of the precinct board.

14422. (a) The precinct board, or if the election official so directs, a board, or boards, at a central counting place, shall examine the ballots and count the votes cast for candidates whose names have been written in. If a separate write-in ballot is used, the board shall number each write-in ballot which contains a write-in vote, starting with the number 1, and the same number shall be placed on the ballot card in the place designated for this purpose. Before any write-in vote is counted, the board shall examine the ballot to ascertain whether the write-in vote is valid, and count it only if it is found to be valid.

(b) Neither a vote registered by punching or slotting, nor a write-in vote, shall be counted if the voter has marked his or her ballot by a combination of punching or slotting the ballot card and writing in a choice of more names than there are candidates to be elected or nominated for any office.

(c) All valid write-in votes shall be tabulated and certified to the elections official on forms provided for this purpose, and the write-in votes shall be added to the results of the count of the ballots at the counting place and be included in the official returns for the precinct.

14423. The precinct board shall group voted ballot cards and voted separate write-in ballots, as directed by the elections official,

and place them in containers. The board shall also place spoiled and void ballots and voided write-in ballots, if any, in containers as directed by the elections official. All of these ballots, along with the containers for voted ballot cards, shall be placed in one or more boxes, which shall then be sealed and delivered as soon as possible to the receiving centers or central counting places with the unused ballots, supplies, and other materials as directed by the elections official.

DIVISION 15. CANVASS, RECOUNT, AND TIE VOTE PROCEDURES

CHAPTER 1. CANVASS OF ABSENTEE BALLOTS

15000. Any county having the necessary computer capability may start to process absent voter ballots on the seventh day prior to the election. This process may be completed to the point of putting the information on computer tape, but under no circumstances shall a vote count be made until 8 p.m. on the day of the election. All other elections officials shall start to process absent voter ballots at 5 p.m. on the day before the election.

Results of any absent voter tabulation or count shall not be released prior to the close of the polls on the day of the election.

15001. The official shall appoint a special counting board or boards in numbers that he or she deems adequate to count the absent voter ballots. The official shall provide for the forms of tally books and the distribution of the duties of the members of the canvassing board.

When the tally is done by hand there shall be no less than four persons for each office or proposition to be counted. One shall read from the ballot, the second shall keep watch for any error or improper vote, and the other two shall keep the tally.

15002. The elections official shall pay a reasonable compensation to each member of the canvassing board of absent voter ballots. This compensation shall be paid out of the treasury of the agency conducting the election as other claims against it are paid.

15003. Except as otherwise provided, the processing and counting of absent voter ballots and the disposition of challenges of absent voter ballots shall be according to the laws now in force pertaining to the election for which they are cast. Since the voter is not present, the challenger shall have the burden of establishing extraordinary proof of the validity of the challenge at the time the challenge is made.

15004. (a) The opening, processing, and counting of absent voter ballots shall be open to the public, both prior to and after the election.

(b) Any member of the county grand jury, and at least one member each of the Republican county central committee, the Democratic county central committee, and of any other party with

a candidate on the ballot, and any other interested organization, shall be permitted to observe and challenge the manner in which the absent voter ballots are processed, from the opening through the counting and disposition of the ballots.

(c) The county elections official shall notify absentee voter observers and the public at least 48 hours in advance of the dates, times, and places where absentee ballots will be opened, processed, and counted.

(d) Absentee voter observers shall be allowed close enough access to enable them to observe and challenge whether those individuals handling absentee ballots are following established procedures, including:

(1) Verifying signatures and addresses by comparing them to voter registration information.

(2) Duplicating accurately any damaged or defective ballots.

(3) Securing absentee ballots to prevent any tampering with them before they are counted on election day.

(e) No absentee voter observer shall interfere with the orderly processing and counting of absentee ballots, including touching or handling of the ballots.

15005. Prior to opening the identification envelopes of absent voters, the elections official shall make available a list of absent voters for public inspection, from which challenges may be presented. Challenges may be made for the same reasons as those made against a voter voting at a polling place. In addition a challenge may be entered on the grounds that the ballot was not received within the time provided by this code or that a person is imprisoned for a conviction of a felony. All challenges shall be made prior to the opening of the identification envelope of the challenged absent voter.

15006. If a challenge is overruled, the board shall then open the identification envelope without defacing the affidavit printed on it or mutilating the enclosed ballot and, without unfolding the ballot, remove the number from the ballot, destroy the number slip, and deposit the ballot in the ballot box provided for the purpose.

15007. If a challenge is allowed, the board shall endorse on the face of the identification envelope the cause of the challenge and its action thereon.

15008. Except as otherwise provided in this chapter the counting and canvassing of absentee ballots shall be conducted in the same manner and under the same regulations as used for ballots cast in a precinct polling place.

15009. Reports to the Secretary of State of the findings of the canvass of absent voter ballots shall be made by the elections official pursuant to Article 1 (commencing with Section 15250) of Chapter 5, and Chapter 6 (commencing with Section 15300).

15010. The elections official shall keep an accurate list of all voters who have received and voted an absent voter ballot at each election and compare this list with the roster of voters as provided in Section

2207.

15011. When elections are consolidated pursuant to Division 10 (commencing with Section 10000), and only one form of ballot is used at the consolidated election, the ballots cast by absent voters shall be counted only in connection with elections to which absent voter privileges have been extended by law.

Whenever the period of time within which absent voters' ballots must be received by the elections official in order to be counted, as provided for any election by this code or any other law of this state, is different from that period of time provided for another election, and the elections are consolidated and only one form of ballot used for both elections, all absent voters' ballots issued for the consolidated election may be counted for both elections if received by the elections official within whichever period of time that is the longer.

CHAPTER 2. VOTE COUNT IN THE PRECINCT

Article 1. General Provisions

15050. This chapter applies to all elections, except elections for which specific provision otherwise is made by law.

15051. As soon as the polls are finally closed, the precinct board shall commence to count the votes by taking the ballots cast, unopened, out of the box and counting them to ascertain whether the number of ballots corresponds with the number of signatures on the roster.

15052. The precinct board shall make a record upon the roster of the number of ballots in the ballot box, the number of signatures on the roster, and the difference, if any.

15053. Neither the elections official, any member of a precinct board, nor any other person shall count any votes, either for a ballot proposition or candidate, until the close of the polls in that county. After that time, the ballots for all candidates and ballot propositions voted upon solely within the county shall be counted and the results of the balloting made public. However, the results for any candidate or ballot proposition also voted upon in another county or counties shall not be made public until after all the polls in that county and such other county or counties have closed. This paragraph shall apply regardless of whether the counting is done by manual tabulation or by a vote tabulating device.

In any county in which a voting machine is used, there shall be no reading or observation of counters until the close of the polls in that county.

15054. The count shall be public and shall be continued without adjournment until completed and the result is declared. During the reading and tallying, the ballot read and the tally sheet kept shall be within the clear view of watchers.

15055. Unless otherwise provided in this code, the precinct board members shall not constitute themselves into separate squads in an

attempt to conduct more than one count of the ballots at the same time.

15056. The members of the precinct board may relieve each other in the duties of counting ballots.

15057. (a) The count shall be conducted by at least four members of the precinct board. All ballots shall be unfolded and examined for irregularities. Any ballot that is not marked as provided by law or that is marked or signed by the voter so that it can be identified by others shall be rejected.

(b) The following shall not render a ballot invalid:

(1) Soiled or defaced.

(2) Two or more impressions of the voting stamp in one voting square.

(c) If a voter indicates either by a combination of both stamping and writing in, a choice of more names than there are candidates to be elected or nominated for any office, or if for any reason the choice of the voter is impossible to determine, the vote for that office shall not be counted, but the remainder of the ballot, if properly marked, shall be counted.

(d) The rejected ballots shall be placed in the package marked for voted ballots or in a separate container as directed by the elections official. All rejected ballots shall have written thereon the cause for rejection and be signed by a majority of the precinct board members.

15058. Those ballots not rejected shall be placed in one pile, and the board shall proceed to count by taking off the vote for one or more offices or measures at a time.

15059. The precinct board members shall ascertain the number of votes cast for each person and for and against each measure in the following manner:

One precinct board member shall read from the ballots. As the ballots are read, at least one other precinct board member shall keep watch of each vote so as to check on any possible error or omission on the part of the officer reading or calling the ballot.

15060. Two of the precinct board members shall each keep a tally sheet in a form prescribed by the elections official. Each tally sheet shall contain:

(a) The name of each candidate being voted for and the specific office for which each candidate is being voted. The offices shall be in the same order as on the ballot.

(b) A list of each measure being voted upon.

(c) Sufficient space to permit the tallying of the full vote cast for each candidate and for and against each measure.

The precinct board members keeping the tally sheets shall record opposite each name or measure, with pen or indelible pencil, the number of votes by tallies as the name of each candidate or measure voted upon is read aloud from the respective ballot.

Immediately upon the completion of the tallies, the precinct board members keeping the tally shall draw two heavy lines in ink or indelible pencil from the last tally mark to the end of the line in

which the tallies terminate and initial that line. The total number of votes counted for each candidate and for and against each measure shall be recorded on the tally sheets in words and figures.

15061. No precinct board member shall make any tally of votes in any other manner than is provided in this chapter, nor in any place other than on the tally sheets provided for that purpose.

15062. The ballots, as soon as all of the names and measures marked on them as voted for are read and tallied, shall not thereafter be examined by any person, but, as soon as all are counted, shall be carefully sealed in a strong envelope. The signatures of each member of the precinct board shall be written across the seal.

15063. The precinct board shall complete, sign, and return to the elections official all furnished forms requiring its signatures.

When votes are counted at the precinct, all members of the precinct board, upon the completion of their duties, shall sign the following certificate of performance, which shall be substantially in the following form:

Certificate of Performance

for _____ precinct, for the _____ election, held on the _____ day of _____, 19__.

We hereby certify that the total number of votes received by each candidate for each office and the total number of votes cast for and against each measure is as indicated on the tally sheets.

We further certify that the results of votes cast forms posted outside the polling place and transmitted to the county elections official show the total number of votes received by each candidate for each office and the total number of votes cast for and against each measure is as indicated.

Inspector	Clerk
Assistant Inspector	Clerk
Judge	Clerk
Judge	Clerk

15064. The precinct board shall sign and post conspicuously on the outside of the polling place a copy of the result of the votes cast. The copy shall remain posted for a least 48 hours after the official time fixed for the closing of the polls.

Article 2. Return of Supplies to the Clerk

15080. The precinct board, as soon after the polls are closed as it is possible to do so, shall prepare the supplies, including the copies of the index posted at or near the polling place, and records of the election for delivery to the elections official.

15081. The precinct board shall enclose and seal in one or more packages, as determined by the elections official, the voted, spoiled, canceled and unused ballots.

15082. The precinct board shall enclose and seal in one or two packages, as determined by the elections official:

(a) Two tally sheets.

(b) The roster of voters.

(c) The copy of the index used as the voting record.

(d) The challenge list.

(e) The assisted voter's list.

15083. The precinct board shall immediately transmit, unsealed, to the elections official a statement showing the result of the votes cast at the polling place. It shall be open to public inspection.

15084. The sealed packages containing the lists, papers, and ballots shall be delivered by two of its members without delay, unopened, to the elections official or to a receiving station designated by the elections official.

15085. No list, tally, paper, or certificate returned from any election shall be set aside or rejected for want of form, nor because it is not strictly in accordance with this code, if it can be satisfactorily understood.

Article 3. Snap Tallies

15100. Before any election, the governing body of the jurisdiction holding the election may decide that certain offices or measures to be voted on are of more than ordinary public interest and require an early tabulation and announcement. The decision shall be transmitted to the elections official not less than 30 days before the election.

15101. The elections official shall prepare and forward to each selected precinct forms containing a list of the offices and measures designated as being of more than ordinary interest, and stating the number of ballots to be counted for the snap tally. In each general election, the special form must, for each office listed on it, include the names of all candidates for that office whose names appear on the ballot.

The inspector at each selected precinct shall note the results of the count and the total number of votes cast in the precinct on the snap tally forms as soon as the designated number of ballots has been tallied. The inspector shall then communicate the figures in the manner directed by the elections official. In each general election, the figures must include the votes cast for every candidate whose

name appears on the ballot for an office listed on the forms. The inspector shall continue, each time the designated number of ballots have been tallied, to note and report the results as directed.

15102. Upon receipt from the precincts of the reports of votes cast on the specially designated offices and measures, the elections official shall tabulate the results and make the results available to the public. In each general election, all these reports of the election results shall include the votes cast for all candidates whose names appear on the ballot for each office for which returns are reported.

15103. In the event ballots are counted by means of electronic, electromechanical, or punchcard device, the elections official may provide for early tabulation and announcement of the returns in a manner consistent with the use of the tabulating devices.

Article 4. Supplemental Counting Boards

15120. This chapter applies in precincts in which a supplemental counting board has been assigned.

15121. The eight-member board shall be divided into two four-member boards. The inspector shall be in charge of group 1 and the assistant inspector shall be in charge of group 2.

The elections official shall prepare and furnish two tally sheets for each group, each set distinctly marked for that group. Each set shall be designed to permit the tally of approximately one-half of the sum total of candidates or measures appearing on the ballots for the precinct. Candidates and measures shall be listed as provided in Section 15060.

The elections official shall determine the number of ballots to be tallied before the ballots are passed from group 1 to group 2. As soon as the proper number of ballots have been tallied by group 1 for as many offices or measures as provided for in their tally sheets, the inspector shall deliver the tallied ballots to group 2. The ballots, upon being tallied by group 2, shall remain in the possession of the assistant inspector until the count of all ballots by both groups has been completed.

15122. The declaration of results shall be made in the manner provided when a four-member board is utilized.

CHAPTER 3. VOTE COUNT IN A CENTRAL PLACE

15150. As soon as the polls are closed, the precinct board shall, in the presence of the public:

(a) Seal the ballot box and insure that the precinct number is designated on the ballot box.

(b) Certify, sign and seal the several packages or envelopes as directed by the elections official.

(c) By not less than two of their number, deliver the ballot box and packages to the elections official at the central counting place in the manner prescribed by the elections official. The ballot box and

packages shall remain in their exclusive possession until delivered by the elections official.

15151. A person may be employed to count, tally, and certify the ballots if he or she is not a candidate at the election and if he or she satisfies either of the following requirements:

(a) Has the qualifications required for a precinct board member.

(b) Is a deputy or employee of either of the following:

(1) The governing board.

(2) The elections official.

No person selected to count ballots needs reside in any particular precinct.

15152. The elections official or any deputy authorized by the elections official may excuse or dismiss any person from any counting board and enforce the order.

15153. The elections official or authorized deputy shall segregate the persons employed to count the ballots into counting boards. These counting boards shall be deemed to be precinct boards, and are subject to all laws governing precinct boards where ballots are counted at the polling place.

15154. Each counting board, in the same manner as provided where ballots are counted at the polling place, shall proceed to count and tally the ballots by precincts, separately, under the direction of the elections official or authorized deputies.

15155. The elections official shall prepare and provide tally sheets. The tally sheets shall be in duplicate, to be kept by two counting board members. There shall be a certificate at the end of the tally sheet to the effect that the foregoing is the correct result of the election in the precinct. The persons who completed the tally sheet and return shall sign the certificate. Upon completion, one copy of the tally sheet shall be sealed in an envelope, which shall be signed across the flap in the manner provided where votes are counted in the precinct. The other tally sheet shall remain open for inspection in the office of the elections official for six months from the date of the election.

15156. The counting of votes shall be in the presence of the public and shall be continuous and without adjournment until completed.

15157. The elections official shall keep the returns in the same manner as if they had been counted at the precinct and returned. The returns shall be securely kept until produced for the official canvass.

CHAPTER 4. ELECTION RETURN CENTERS

15200. The governing body of the jurisdiction may establish one or more election return centers for the purpose of facilitating the compilation of election returns and expediting their announcement to the public.

15201. In establishing a return center the governing body may designate a group of precincts which the center shall serve. The

election return center may be at any public place as the governing body designates.

15202. Upon receipt of the copies of the result of votes cast from the precinct boards, the elections official shall tabulate, total and make available to the public the results so received as to the offices and measures.

CHAPTER 5. SEMIOFFICIAL CANVASS

Article 1. General Provisions

15250. For every election the elections official shall conduct a semiofficial canvass by compiling the returns as shown on the result of the votes cast turned in after the precinct boards have completed their count at the polls. The semiofficial canvass shall commence immediately upon the first returns from the precinct and shall continue without adjournment until all precincts are accounted for.

15251. The elections official shall transmit the semiofficial returns to the Secretary of State in the manner and according to the schedule prescribed by the Secretary of State prior to each election, for:

(a) All candidates voted for statewide office.

(b) All candidates voted for the following offices:

(1) State Assembly.

(2) State Senate.

(3) Representative in Congress.

(4) Member of the State Board of Equalization.

(c) In presidential years, all persons voted for at the presidential primary or for electors of President and Vice President of the United States, depending on the election involved.

(d) Statewide ballot measures.

The elections official shall transmit the returns to the Secretary of State at intervals no greater than two hours, following commencement of the semiofficial canvass.

Article 2. Elections Using Voting Systems: Counting Procedures

15260. An elections official may provide that the ballots cast in any precinct for which the system provided for in Article 2 (commencing with Section 12350) of Chapter 4 of Division 12 has been adopted shall be counted at the polls or at a central counting place, or places, as provided in this article.

15261. In the event that paper ballots are used in conjunction with this system, counting shall be as provided in Division 15 (commencing with Section 15000).

15262. If the ballots are to be counted at a central counting place a member of the precinct board shall, following the close of the polls, deliver the ballots, in a sealed container, to the central counting place or a designated receiving station. There may be two or more central counting places.

15263. The ballots may be counted at the polls if a counting or tabulating machine approved therefor pursuant to Article 2 (commencing with Section 12350) of Chapter 4 of Division 12 is available at the polls. In case of an emergency in which it becomes impossible to transport the ballots from the precinct to a central counting place, the election official may direct that the ballots be counted at the precinct. In those cases, counting shall be conducted substantially in accordance with Article 1 (commencing with Section 15050) of Chapter 2 of Division 15.

15264. The vote tabulating device may be located at any place within the state approved by the election official of the county or other political subdivision using the device. The same device may be jointly owned, borrowed, leased or used by two or more counties, cities or other political subdivisions to tabulate ballots cast in any election.

15265. All proceedings at the central counting place shall be open to the view of the public but no person, except one employed and designated for the purpose by the elections official or his or her authorized deputy, shall touch any ballot container. Access to the area where electronic data processing equipment is being operated may be restricted to those persons authorized by the elections official.

15266. The county central committee of each qualified political party may employ, and may have present at the central counting place or places, not more than two qualified data-processing specialists or engineers to check and review the preparation and operation of the tabulating devices, their programming and testing, and have the specialists or engineers in attendance at any or all phases of the election.

15267. Each container of ballots shall be opened and its contents removed. The ballots shall be checked to ascertain if the ballots are properly grouped and shall be arranged so that all similar ballots from the precinct are together.

15268. Any tape used in the programming of an electronic or electromechanical vote counting device upon which votes are registered pursuant to this chapter, and any tape used in the compiling of vote totals from the counting device, shall be kept under lock and seal, and if there is a recanvass of the votes, the officer entrusted with the tapes shall submit his or her affidavit stating that they are the true tapes used in the election and have not been altered.

15269. The tabulating machines used pursuant to Division 19 (commencing with Section 19000) may be equipped with a device that registers votes cast for candidates and measures on a cumulative basis and that may be used to determine the votes cast for each candidate and on each measure at any time and up to that time.

15270. In preparing the voted ballot cards for processing, any ballot card that is torn, bent, or otherwise defective shall be corrected so that every vote cast by the voter shall be counted by the

automatic tabulating equipment. If necessary, a true duplicate copy of the defective ballot card shall be made and substituted therefor, following the intention of the voter insofar as it can be ascertained from the defective ballot card. All duplicate ballot cards shall be clearly labeled "duplicate," and shall bear a serial number that shall be recorded on the damaged or defective ballot.

15271. If paper ballots are used for absentee voting the canvass may be conducted in accordance with Chapter 1 (commencing with Section 15000) of Division 15, or the elections official may have a true duplicate copy of absentee voter paper ballots made on punchcard ballots which shall be verified in the presence of witnesses and after verification the punchcard ballots shall be counted in the same manner as other punchcard ballots.

15272. The elections official may count absent voter ballots by the use of a voting machine or vote tabulating device subject to all of the following:

(a) All interested persons shall be afforded the opportunity to be present.

(b) No vote shall be counted unless there are at least three persons observing the counting procedure.

(c) The voting machine or device shall be inspected, all of its registering counters set at zero (000) and locked.

(d) The elections official may appoint persons to assist in the counting of these ballots. No person shall be appointed who is not fully qualified to perform his or her duties.

(e) No vote shall be registered in the voting machine or device unless all persons present are in agreement that the voting machine or device reflects exactly the vote of the ballot being counted.

(f) When the votes of all absent voter ballots have been registered in the voting machine or device, the results of the votes cast shall be tabulated in the same manner as the results from other voting machines or devices.

15273. Notwithstanding Section 15000, if the elections official uses voting machines or vote tabulating devices to count absentee ballots as provided by Section 15272, the elections official may commence processing the absentee ballots not earlier than 12:00 noon on the day before the election. However, the elections official shall not count or enter the ballots into the voting machine until election day.

15274. When voting at all precincts within a county has not been conducted using the same voting system, the result as to the precincts not subject to this article shall be determined in accordance with other provisions of this code and the result of the vote at precincts subject to this article shall be determined as provided in this article. The statement of the vote in that case shall represent the consolidation of all the results and the results of the canvass of all absent voter ballots.

15275. When ballots are counted under this article, the result of the vote shall be shown by precincts.

15276. Upon completion of the count, the elections official shall

add to the results as so determined the results of the write-in votes and any paper ballots used as certified by the precinct board and thereupon shall declare the vote, and forthwith post one copy at the counting place for public inspection.

15277. The final canvass of the vote at an election in which all voting in the county was done pursuant to Article 2 (commencing with Section 12350) of Chapter 4 of Division 12, or Division 19 (commencing with Section 19000), may be made by adding the results as determined by the elections official to the results of the canvass of the absent voter ballots and making the statement of the vote in the manner provided for the particular election.

CHAPTER 6. OFFICIAL CANVASS

15300. This chapter applies to all elections.

15301. The elections official shall conduct the official canvass, commencing not later than the first Thursday following each election.

15302. The canvass may be made at any public place as the elections official designates.

15303. The canvass shall be public and shall be conducted by opening the returns and determining the vote for each person and for and against each measure voted upon at the election, and declaring the result thereof.

15304. The canvass shall be continued daily, Saturdays, Sundays, and holidays excepted, for not less than six hours each day until completed.

15305. If the returns from any precinct are incomplete, ambiguous, not properly authenticated, or otherwise defective, the elections official may issue and serve subpoenas requiring members of the precinct board to appear and be examined under oath concerning the manner in which votes were counted and the result of the count in their precinct.

15306. In jurisdictions using a central counting place, the elections official may appoint not less than three deputies to open the envelopes or containers in the precinct returns. If, after examination, any precinct return is still incomplete, ambiguous, not properly authenticated, or otherwise defective, the members of the counting board may be summoned before the elections official to correct the errors or omissions.

15307. The elections official shall not open any ballots nor permit any ballots to be opened except as permitted in Sections 15305 and 15306, or in the event of a recount.

15308. The elections official shall prepare a certified statement of the results of the election and submit it to the governing body within 28 days of the election or, in the case of school district, community college district, county board of education, or special district elections conducted on the first Tuesday after the first Monday in November of odd-numbered years, no later than the last Monday

before the last Friday of that month.

15309. The statement of the result shall show:

(a) The total number of ballots cast.

(b) The number of votes cast at each precinct for each candidate and for and against each measure.

(c) The total number of votes cast for each candidate and for and against each measure.

The statement of the result shall also show the number of votes cast in each city, Assembly district, congressional district, senatorial district, State Board of Equalization district, and supervisorial district located in whole or in part in the county, for each candidate for the offices of presidential elector and all statewide offices, depending on the offices to be filled, and on each statewide ballot proposition.

15310. The elections official shall forthwith send to the Secretary of State by registered mail one complete copy of all returns as to:

(a) All candidates voted for statewide office.

(b) All candidates voted for the following offices:

(1) Member of the Assembly.

(2) Member of the Senate.

(3) Representative in Congress.

(4) Member of the State Board of Equalization.

(5) Judge, except judge of an inferior court.

(c) All persons voted for at the presidential primary. The returns for all persons voted for at the presidential primary for delegates to national conventions shall be canvassed first and shall be sent separately within 20 days after the election.

(d) At presidential elections, the vote given for persons for electors of President and Vice President of the United States. The returns for presidential electors shall be endorsed "Presidential Election Returns," and sent separately.

(e) All statewide measures.

15311. The elections official shall deliver a duplicate of the certified statement of the result of votes cast to the chairman of the county central committee of each party.

CHAPTER 7. CANVASS OF WRITE-IN VOTES

15350. Any name written upon a ballot, including a reasonable facsimile of the spelling of a name, shall be counted, unless prohibited by Section 15351, for the office under which it is written, if it is written in the blank space therefor, whether or not a cross (+) is stamped or made with pen or pencil in the voting square after the name so written.

15351. No name written upon a ballot in any election shall be counted for an office or nomination unless the candidate whose name has been written on the ballot has complied with Part 3 (commencing with Section 8600) of Division 8.

15352. Every voter shall be entitled to write the name of any candidate for any public office, including that of President and Vice

President, on the ballot of any election.

15353. The name of a write-in candidate shall be written by hand upon a ballot. The use of pressure-sensitive stickers or methods other than handwriting of indicating the name of the write-in candidate are not valid, and a name indicated by any of those methods shall not be counted.

CHAPTER 8. ANNOUNCEMENT OF RETURNS

15400. The governing body shall declare elected or nominated to each office voted on at each election under its jurisdiction the person having the highest number of votes for that office, or who was elected or nominated under the exceptions noted in Section 15452. The governing board shall also declare the results of each election under its jurisdiction as to each measure voted on at the election.

15401. The elections official shall make out and deliver to each person elected or nominated, as declared by the governing body, a certificate of election or nomination, signed and authenticated by the elections official.

15402. Whenever a candidate whose name appears upon the ballot at any election dies after the 68th day before the election, the votes cast for the deceased candidate shall be counted in determining the results of the election for the office for which the decedent was a candidate. If the deceased candidate receives a majority of the votes cast for the office, he or she shall be considered elected and the office to which he or she was elected shall be vacant at the beginning of the term for which he or she was elected. The vacancy thus created shall be filled in the same manner as if the candidate had died subsequent to taking office for that term.

CHAPTER 9. DETERMINATION OF ELECTED OR NOMINATED CANDIDATES

Article 1. General Provisions

15450. A plurality of the votes given at any election shall constitute a choice where not otherwise directed in the California Constitution, provided that it shall be competent in all charters of cities, counties, or cities and counties framed under the authority of the California Constitution to provide the manner in which their respective elective officers may be elected and to prescribe a higher proportion of the vote therefor.

15451. The person who receives the highest number of votes at a primary election as the candidate of a political party for the nomination to an office is the nominee of that party at the ensuing general election.

15452. The person who receives a plurality of the votes cast for any office is elected or nominated to that office in any election, except:

(a) An election for which different provision is made by any city or county charter.

(b) A municipal election for which different provision is made by the laws under which the city is organized.

(c) The election of local officials in primary elections as specified in Article 8 (commencing with Section 8140) of Part 1 of Division 8.

Article 2. Democratic Central Committee Conditions for Election of Candidate

15460. In each county the number of candidates for membership in a county central committee in each Assembly or supervisorial district who receive the highest number of votes shall be declared elected. However, a candidate for membership shall not be declared elected unless he or she has received votes equal in number to the minimum number of signatures to the nomination paper which would have been required to place his or her name on the direct primary ballot as a candidate for member of a committee.

Article 3. Republican Central Committee Conditions for Election of Candidate

15470. In each county the number of candidates for membership in a committee in each Assembly or supervisorial district who receive the highest number of votes shall be declared elected. However, a candidate for membership shall not be declared elected unless he or she has received votes equal in number to the minimum number of signatures to the nomination paper which would have been required to place his or her name on the direct primary ballot as a candidate for member of a committee.

Article 4. American Independent Central Committee Conditions for Election of Candidate

15480. In each county the number of candidates for membership in a county central committee in each Assembly or supervisor district who receive the highest number of votes shall be declared elected. However, a candidate for membership shall not be declared elected unless he or she has received votes equal in number to the minimum number of signatures to the nomination paper which would have been required to place his or her name on the direct primary ballot as a candidate for member of a committee.

Article 5. Peace and Freedom Central Committee Conditions for Election of Candidate

15490. In each county the number of candidates for member of central committees to be elected in each central committee election district who receive the highest number of votes shall be declared

elected. The names and votes of all nominees for partisan public office qualified for central committees membership pursuant to Section 7755 shall be excluded from the list of candidates for member of central committees and disregarded in the determination of the candidates with the highest number of votes.

No write-in candidate for member of central committees shall be declared elected, however, unless that candidate has received a number of votes equal to or greater than 2 percent of the number of party members voting in the central committee election district at the direct primary, or 20 votes, whichever is less.

CHAPTER 10. DUTIES OF THE SECRETARY OF STATE

15500. The Secretary of State, commencing with the first returns from the semiofficial canvass received from the elections officials, shall compile the returns for the offices and measures mentioned in Section 15251, which compilation shall be continued without adjournment until completed. The Secretary of State shall immediately make public the results of the compilation as to those offices and measures.

15501. (a) Except as to presidential electors, the Secretary of State shall compile the returns for:

(1) All candidates for statewide office.

(2) All candidates for Assembly, State Senate, Congress, State Board of Equalization, and judicial offices, except judges of an inferior court.

(3) All statewide measures.

(b) The Secretary of State shall make out, certify, and file a statement of the vote from the compiled returns no later than the 39th day after the election.

15502. Within 120 days of the filing of the statement of the vote, the Secretary of State, upon the basis of the information provided, shall compile a supplement to the statement of the vote, showing the number of votes cast in each county, city, Assembly district, senatorial district, congressional district and supervisorial district for each candidate for the offices of presidential elector, Governor, and United States Senator, depending on the offices to be filled, and on each statewide ballot proposition. A copy of this supplement shall be made available, upon request, to any elector of this state.

15503. On the 39th day after the election, or as soon within that time as the returns have been received from the entire state or a congressional district, as the case may be, the Secretary of State shall determine the votes cast for candidates for Senator and Representative and certify to the persons having the highest number of votes for the respective offices as duly elected.

15504. The Secretary of State shall make out and deliver, or transmit by mail, a certificate of election or nomination to each person elected or nominated.

15505. On the first Monday in the month following the election,

or as soon as the returns have been received from all the counties in the state, if received before that time, the Secretary of State shall analyze the votes given for presidential electors, and certify to the Governor the names of the proper number of persons having the highest number of votes. The Secretary of State shall thereupon issue and transmit to each such presidential elector a certificate of election. The certificate shall be accompanied by a notice of the time and place of the meeting of the presidential electors and a statement that each presidential elector will be entitled to a per diem allowance and mileage in the amounts specified.

CHAPTER 11. DISPOSITION OF BALLOTS AND SUPPLIES BY THE ELECTIONS OFFICIAL

15550. The records and supplies of any election when received by the elections official shall be disposed of in the manner set forth in this chapter.

15551. If a contest or any such criminal prosecution has been commenced prior to the date fixed for its destruction, the package containing the voted ballots shall be subject to the order of the court in which the contest or criminal prosecution is pending and shall not be destroyed until after final determination of the contest or criminal prosecution.

In the case of a congressional election contest, the elections official shall hold the ballots of that congressional district in custody subject to the inspection of any committee of the House of Representatives having in charge the investigation of the contest, until the final determination of the contest by the House of Representatives.

In the case of a contest in the State Legislature, the elections official shall hold the ballots of the Senate or Assembly district in custody subject to the inspection of any committee of the Senate or Assembly having in charge the investigation of the contest until the final determination of the contest or the final adjournment of the session of the Legislature in which the contest is filed, whichever is the later.

In no event shall the package or its contents be taken from the custody of the elections official.

15552. Notwithstanding any other provision of the law, the elections official, after holding the unused ballots for the purposes of Division 14 (commencing with Section 14000), immediately upon the arrival of the hour when the polls are required by law to be closed on election day, in lieu of the procedure outlined in Section 14406, may recycle for any other lawful purpose any unused ballots remaining in the control of the elections official that clearly identify the election for which they were prepared. The elections official shall make and file an affidavit, in writing, as to the number of ballots recycled.

CHAPTER 12. RECOUNT

Article 1. General Provisions

15600. Except as provided in this chapter, this chapter applies to all elections. The recount of votes cast for candidates for presidential electors shall be governed by this chapter.

Article 2. Elections Official-Ordered Recounts

15610. If no election contest is pending wherein a recount of the ballots in a precinct has been or will be ordered, the elections official may order that the ballots voted in the precinct be publicly recounted if both of the following apply:

(a) The elections official has reasonable cause to believe the ballots in the precinct have been miscounted.

(b) The elections official has examined, under oath, the precinct board members or, in the case of ballots counted by a central counting system, the counting board members, and they are unable to explain the returns of their respective precincts.

Article 3. Voter-Requested Recounts

15620. Following completion of the official canvass, any voter may, within five days thereafter, file with the elections official responsible for conducting an election in the county wherein the recount is sought a written request for a recount of the votes cast for candidates for any office, for slates of presidential electors, or for or against any measure, provided the office, slate, or measure is not voted on statewide. The request shall specify on behalf of which candidate, slate of electors, or position on a measure (affirmative or negative) it is filed.

If an election is conducted in more than one county, the request for the recount may be filed with the elections official of, and the recount conducted within, any or all of the affected counties.

For the purposes of this section "completion of the canvass" shall be presumed to be that time when the elections official signs the certified statement of the results of the election except that, in the case of a city election, if a city council canvasses the returns itself and does not order the elections official to conduct the canvass as permitted by Section 10263, "completion of the canvass" shall be presumed to be that time when the governing body declares the persons elected or the measures approved or defeated.

15621. Following completion of the official canvass, any voter may, within five days beginning on the 29th day after a statewide election, file with the Secretary of State a written request for a recount of the votes cast for candidates for any statewide office or for or against any measure voted on statewide. The request shall specify in which county or counties the recount is sought and shall specify

on behalf of which candidate, slate of electors, or position on a measure (affirmative or negative) it is filed.

The Secretary of State shall forthwith send by registered mail one copy of the request to the elections official of each county in which a recount of the votes is sought.

All the other provisions of this article shall apply to recounts conducted under this section.

15622. The request may specify the order in which the precincts shall be recounted.

15623. Any time during the conduct of a recount and for 24 hours thereafter, any other voter may request the recount of any precincts in an election for the same office, slate of presidential electors, or measure not recounted as a result of the original request.

15624. The voter filing the request seeking the recount shall, before the recount is commenced and at the beginning of each day following, deposit with the elections official a sum as required by the elections official to cover the cost of the recount for that day. The money deposited shall be returned to the depositor if, upon completion of the recount, the candidate, slate of presidential electors, or the position on the measure (affirmative or negative) for which the declaration is filed is found to have received the plurality of votes cast which it had not received according to the official canvass or, in an election where there are two or more candidates, the recount results in the candidate for whom the recount was requested appearing on the ballot in a subsequent runoff election or general election who would not have so appeared in the absence of the recount. The depositor shall be entitled to the return of any money deposited in excess of the cost of the recount if the candidate, slate, or position on the measure has not received the plurality of the votes cast or, in an election where there are two or more candidates, the recount does not result in the candidate for whom the recount was requested appearing on the ballot in a subsequent runoff or general election as a result of the recount. Money not required to be refunded shall be deposited in the appropriate public treasury.

15625. The recount shall be conducted under the supervision of the elections official by special recount boards consisting of four voters of the county appointed by the elections official. Each member of a recount board shall receive the same compensation per day as is paid in the jurisdiction within which the recount is being conducted to members of precinct boards, other than inspectors, to be paid out of the appropriate public treasury.

If the office of the elections official is the subject of the recount, the governing body shall appoint an officer, other than the elections official, to appoint and supervise the special recount boards.

15626. The recount shall be commenced not more than seven days following the receipt by the elections official of the request for the recount under Section 15620 or 15621, and shall be continued daily, Saturdays, Sundays, and holidays excepted, for not less than six hours each day until completed. The recount shall not be

commenced until the first day following notification of the individuals specified in Section 15628.

15627. If in the election which is to be recounted the votes were recorded by means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, the voter who files the declaration requesting the recount may select whether the recount shall be conducted manually or by means of the voting system used originally, or both.

15628. Not less than one day prior to commencement of the recount, the elections official shall post a notice as to the date and place of the recount and shall notify the following persons of it in person or by telegram:

(a) All candidates for any office the votes for which are to be recounted.

(b) Authorized representatives of presidential candidates to whom electors are pledged if the votes to be recounted were cast for presidential electors.

(c) Proponents of any initiative or referendum or persons filing ballot arguments for or against any initiative, referendum, or measure placed on the ballot by the governing body the votes for which are to be recounted.

(d) The Secretary of State in the case of a recount of the votes cast for candidates for any state office, presidential electors, the House of Representatives of the United States, the Senate of the United States, or delegates to a national convention or on any state measure.

15629. The recount shall be conducted publicly.

15630. All ballots, whether voted or not, and any other relevant material, may be examined as part of any recount if the voter filing the declaration requesting the recount so requests.

No examination of any ballot shall include touching or handling the ballot without the express consent of the elections official or the election officer supervising the special recount board. No ballot may be touched or handled during the examination unless the elections official or the elections officer supervising the special recount is present to observe the examination.

Except as provided in this section no ballot shall be touched or handled by any person during the recount unless that person is the elections official, a person acting at the direction of the elections official, a member of the special recount board, or by order of the superior court.

15631. On recount, ballots may be challenged for incompleteness, ambiguity, or other defects, in accordance with the following procedure:

(a) The person challenging the ballot shall state the reason for the challenge.

(b) The official counting the ballot shall count it as he or she believes proper and then set it aside with a notation as to how it was counted.

(c) The elections official shall, before the recount is completed,

determine whether the challenge is to be allowed. The decision of the elections official is final.

15632. In lieu of the returns as reported in the official canvass, upon completion of the recount showing that a different candidate was nominated or elected, that a different presidential slate of electors received a plurality of the votes, or that a measure was defeated instead of approved or approved instead of defeated, there shall be entered the result of the recount in each precinct affected, which result shall, for all purposes thereafter, be the official returns of those precincts for the office, slates of presidential electors, or measure involved in the recount. If the office, slates of presidential electors, or measure are not voted on statewide, the results of any recount which is not completed by counting the votes in each and every precinct in the jurisdiction within which votes were cast on the candidates for the office, on the slates of electors, or on the measure in question shall be declared null and void. If the office, slates of presidential electors, or measure are voted on statewide, the results of any recount will be declared null and void where there is not recounted each vote cast for the office, slates, or measure in any county specified in the request for recount filed with the Secretary of State.

15633. A copy of the results of any recount conducted pursuant to this chapter shall be posted conspicuously in the office of the elections official.

15634. This chapter does not:

(a) Authorize the opening or recounting of ballots for any precinct except for the purposes specified in this chapter.

(b) Limit other provisions of law regarding an election contest or recount.

Article 4. Court-Ordered Recounts

15640. (a) When requested by the board of supervisors or the grand jury, the district attorney may petition the superior court for an order directing a public recount to be made of ballots tabulated by a voting system in any precincts in the county that it designates for any election occurring not over 25 days before the request. The request and petition shall be made only on one or more of the following grounds, and the order may be issued only with a finding that there is probable cause to believe that one or more of the grounds exist:

(1) Misconduct by anyone sufficient to make it likely that the result of the election was affected as to the successful candidates or propositions or tie holders, including any of the conduct specified in Section 16100.

(2) Errors or failures, whether electronic, mechanical or otherwise, in the safekeeping, handling, tallying, counting, recording, or certification of the ballots or votes cast, sufficient to make it likely that the result of the election was affected as to the

successful candidates or propositions or tie holders, or sufficient to cast substantial doubt on the substantial accuracy of the results without regard to affecting any result.

The petition shall be set for hearing and may be opposed by any interested party.

(b) The court may order any further recounts that it may deem proper based on the results of the recounts provided for in subdivision (a) or in Section 15645, and shall declare the results of all the recounts, and shall determine and order corrected the results of any election affected by any recount.

(c) The court may order payment of the costs of any such recount in whole or in just proportion by any person or any public agency, or both, who petition for a recount. In the case of public agencies the costs shall be provided for and paid pursuant to Section 19212.

15641. Section 17500 shall apply unless a court orders the program held pending the conclusion of litigation challenging the outcome of an election. If court action or an official recount is initiated while the program is on deposit, the Secretary of State shall make the program available to the court or the elections official in whose jurisdiction the court action or recount takes place, upon written request.

15642. Any tape used in programming of vote totals shall be kept under lock and seal and, if there is a recanvass of votes, the officer entrusted with the tapes shall submit his or her affidavit stating that they are true tapes used in the election and have not been altered.

Article 5. Automatic Recounts in Voting System Elections

15645. Within 15 days after every election in which a voting system is used the official conducting the election shall conduct a public manual recount of the ballots tabulated by those devices cast in 1 percent of the precincts chosen at random by the elections official. If 1 percent of the precincts should be less than one whole precinct, the recount shall be conducted in one precinct chosen at random by the elections official.

In addition to the 1-percent count, the elections official shall, for each race not included in the initial group of precincts, count one additional precinct. The manual recount shall apply only to the race not previously counted.

Additional precincts for the manual recount may be selected at the discretion of the elections official.

CHAPTER 13. TIE VOTES

Article 1. Elections Other than Primary Elections

15650. This article does not apply to any primary election.

15651. (a) If at any election, except as provided in subdivision (b) and an election for Governor or Lieutenant Governor, two or more persons receive an equal and the highest number of votes for

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

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

A special runoff election shall be held only if the legislative body adopts the provisions of this subdivision prior to the conduct of the election resulting in the tie vote. If a legislative body decides to call a special runoff election in the event of a tie vote, all future elections conducted by that body shall be resolved by the conduct of a special runoff election, unless the legislative body later repeals the authority for the conduct of a special runoff election.

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

15652. If the tie vote has been determined pursuant to Section 15651, the person declared elected by the Secretary of State or the election board is entitled to a certificate of election. The Secretary of State, the county elections official or the city elections official, whichever the case may be, shall immediately make out and deliver to that person a certificate of election.

15653. When two or more persons have an equal and highest number of votes for either Governor or Lieutenant Governor, the Secretary of State shall deliver a certificate to that effect to each of the tied candidates. Each tied candidate may present the certificate to the Legislature in the manner that her or she sees fit.

15654. In case any two or more persons have an equal and highest number of votes for either Governor or Lieutenant Governor, the Legislature shall, by a joint vote of both houses, choose one of the persons to fill the office.

Article 2. At Primary Elections

15670. This article applies only to:

(a) Candidates for delegates to a national convention for the nomination of party candidates for President and Vice President of the United States.

(b) Candidates for nomination at the direct primary to offices other than nonpartisan offices.

15671. In case of a tie vote for member of the State Board of Equalization, state Senator, Member of the Assembly, Representative in Congress or member of a county central committee, where the office is to be voted for wholly within one county, the election board shall forthwith summon the candidates who have received tie votes to appear before it, at a time and place to be designated by the board, and the board shall at that time and place determine the tie by lot.

15672. In the case of a tie vote for an office other than a judicial or school office to be voted on in more than one county, the Secretary of State shall forthwith summon the candidates who have received tie votes to appear before him or her at his or her office at the State Capitol at a time to be designated by him or her. The Secretary of State shall at that time and place determine the tie by lot.

15673. The summons mentioned in this article shall in every case be mailed to the address of the candidate as it appears upon his or her affidavit of registration, at least five days before the day fixed for the determination of the tie vote.

DIVISION 16. ELECTIONS CONTESTS

CHAPTER 1. GENERAL PROVISIONS

16000. The general election contest provisions of this division, exclusive of Article 1 (commencing with Section 16700) of Chapter 8, Chapter 9 (commencing with Section 16800), and Article 1 (commencing with Section 16900) of Chapter 10, shall also apply to the recount of votes cast on a ballot measure, insofar as they can be made applicable.

16001. As used in this division, "elections official" does not include "registrar of voters."

16002. When used in this division, "contestant" means any person initiating an election contest. "Defendant" means that person whose election or nomination is contested or those persons receiving an equal and highest number of votes, other than the contestant, where, in other than primary elections, the body canvassing the returns declares that no one person has received the highest number of votes for the contested office.

16003. In a contest of the election of presidential electors the action or appeal shall have priority over all other civil matters. Final determination and judgment shall be rendered at least six days

before the first Monday after the second Wednesday in December.

CHAPTER 2. GROUNDS FOR CONTEST

16100. Any elector of a county, city, or of any political subdivision of either may contest any election held therein, for any of the following causes:

(a) That the precinct board or any member thereof was guilty of malconduct.

(b) That the person who has been declared elected to an office was not, at the time of the election, eligible to that office.

(c) That the defendant has given to any elector or member of a precinct board any bribe or reward, or has offered any bribe or reward for the purpose of procuring his election, or has committed any other offense against the elective franchise defined in Division 18 (commencing with Section 18000).

(d) That illegal votes were cast.

(e) That the precinct board in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election as to any person who has been declared elected.

(f) That there was an error in the vote-counting programs or summation of ballot counts.

16101. Any candidate at a primary election may contest the right of another candidate to nomination to the same office by filing an affidavit alleging any of the following grounds, that:

(a) The defendant is not eligible to the office in dispute.

(b) The defendant has committed any offense against the elective franchise defined in Division 18 (commencing with Section 18000).

(c) A sufficient number of votes were illegal, fraudulent, forged, or otherwise improper, and that had those votes not been counted, the defendant would not have received as many votes as the contestant.

(d) Due to mistake, error, or misconduct the votes in any precinct were so incorrectly counted as to change the result.

CHAPTER 3. CONTESTS AT GENERAL ELECTIONS

16200. This chapter shall not apply to elections for the office of state Senator or Member of the Assembly of the California Legislature.

16201. No irregularity or improper conduct in the proceedings of the precinct board members, or any of them, is malconduct that avoids an election, unless the irregularity or improper conduct is such as to procure the defendant to be declared either elected or one of those receiving an equal and highest number of votes where no one person has received the highest number of votes.

16202. When any election held for an office exercised in and for a county is contested on account of any malconduct on the part of the precinct board of any precinct, or any member thereof, the

election shall not be annulled or set aside upon any proof thereof, unless the rejection of the vote of that precinct would change the result as to that office in the remaining vote of the county.

16203. An election shall not be set aside on account of illegal votes, unless it appears that a number of illegal votes has been given to the person whose right to the office is contested or who has been certified as having tied for first place, which, if taken from him, would reduce the number of his legal votes below the number of votes given to some other person for the same office, after deducting therefrom the illegal votes which may be shown to have been given to that other person.

CHAPTER 4. CONTESTS AT PRIMARY ELECTIONS

16300. Irregularity or improper conduct shall annul or set aside a nomination only if it appears that illegal votes in the precinct have been given to the defendant, which if taken from him or her, would reduce the number of his legal votes below the number of votes given to the contestant.

CHAPTER 5. FORM OF CONTEST STATEMENT

Article 1. General Elections

16400. When an elector contests any election he or she shall file with the county elections official a written statement setting forth specifically:

(a) The name of the contestant and that he or she is an elector of the district or county, as the case may be, in which the contested election was held.

(b) The name of the defendant.

(c) The office.

(d) The particular grounds of contest and the section of this code under which the statement is filed.

(e) The date of declaration of the result of the election by the body canvassing the returns thereof.

16401. The contestant shall verify the statement of contest, as provided by Section 446 of the Code of Civil Procedure, and shall file it within the following times after the declaration of the result of the election by the body canvassing the returns thereof:

(a) In cases other than cases of a tie, where the contest is brought on any of the grounds mentioned in subdivision (c) of Section 16100, six months.

(b) In all cases of tie, 20 days.

(c) In cases involving presidential electors, 10 days.

(d) In all other cases, 30 days.

16402. When the reception of illegal votes is alleged as a cause of contest, it is sufficient to state generally that in one or more specified voting precincts illegal votes were given to the defendant, which, if

taken from him or her, will reduce the number of his or her legal votes below the number of legal votes given to some other person for the same office.

Testimony shall not be received of any illegal votes, unless the contestant delivers to the defendant, at least three days before the trial, a written list of the number of illegal votes, and by whom given, which he or she intends to prove. No testimony may be received of any illegal votes except those that are specified in the list.

16403. A statement of the grounds of contest shall not be rejected nor the proceedings dismissed by any court for want of form, if the grounds of contest are alleged with such certainty as will advise the defendant of the particular proceeding or cause for which the election is contested.

16404. The affidavit shall specify separately each precinct in which any irregularity or improper conduct took place, or in which a recount is demanded, and the nature of the mistake, error, misconduct, or other cause of contest, and the date of completion of the official canvass of the board of supervisors of the county last making the declaration.

Article 2. Primary Elections

16420. The defendant shall be named in the affidavit.

16421. The affidavit shall be filed in the office of the clerk of the superior court having jurisdiction, within five days after the completion of the official canvass by the board of supervisors of the county last making the declaration.

Article 3. Contests Other than Recount

16440. This article applies only to contests on the grounds that:

(a) The defendant is not eligible to the office in dispute.

(b) The defendant has committed any offense against the elective franchise as defined in Division 18 (commencing with Section 18000).

(c) A sufficient number of votes were illegal, fraudulent, forged, or otherwise improper, and that had those votes not been counted the defendant would not have received as many votes as the contestant.

16441. If the nomination contested is for an office including a political subdivision of more than one county, the superior court of any county within the political subdivision has jurisdiction, and the contestant may file in any county within the political subdivision. There shall be no change of venue therefrom to any other county within the political subdivision.

16442. After the affidavit is filed with the clerk of the superior court, a copy of the affidavit shall be personally served upon the defendant or sent to him or her by registered mail in a sealed envelope with postage prepaid, addressed to the defendant at the

place of residence named in his or her affidavit of registration. The contestant shall make an affidavit of mailing if he or she serves the affidavit by mail, and file it on the same day with the county elections official.

16443. The defendant, after receipt of the copy of the affidavit, may file an answer and a cross-contest affidavit within five days.

16444. No special appearance, demurrer or objection may be taken other than by the affidavits which shall be considered a general appearance in the contest.

Article 4. Contests Involving a Recount

16460. This article applies only to contests on the ground that due to mistake, error, or misconduct the votes in any precinct were so incorrectly counted as to change the result.

16461. The superior court of that county in which is located the precinct in which the contestant demands a recount has jurisdiction.

16462. No service other than as provided in this section need be made upon the defendant. The affidavit shall be filed in the office of the clerk of the superior court within five days after the completion of the official canvass. Upon the filing of the affidavit the county elections official shall forthwith post, in a conspicuous place in his or her office, a copy of the affidavit. Upon the filing of the affidavit and its posting, the superior court of the county shall have jurisdiction of the subject matter and of the parties to the contest. The contestant on the date of filing the affidavit shall send by registered mail a copy thereof to the defendant in a sealed envelope, with postage prepaid, addressed to the defendant at the place of residence named in the affidavit of registration of the defendant, and shall make and file an affidavit of mailing with the county elections official, which shall become a part of the records of the contest.

16463. All candidates at any primary election are permitted to be candidates under this code only upon the condition that jurisdiction for the purposes of the proceeding authorized by this article shall exist in the manner and under the conditions provided for by Section 16462.

16464. At any time within three days after the filing of the affidavit of the contestant to the effect that he or she has sent by registered mail a copy of the affidavit to the defendant, the defendant may file with the county elections official an affidavit in his or her own behalf, setting up his or her desire to have the votes counted in any precincts, designating them, in addition to the precincts designated in the affidavit of the contestant, and setting up his or her grounds therefor. On the trial of the contest all of the precincts named in the affidavits of the contestant and the defendant shall be considered, and a recount had with reference to all of those precincts. The contestant shall have the same right to answer the affidavit of the defendant as is given to the defendant with reference to the affidavit of the contestant except that the contestant's answer

shall be filed not later than the first day of the trial of the contest.

16465. The defendant shall appear, either in person or by attorney, at the time and place fixed for the hearing, and shall take notice of the order fixing the time and place from the records of the court, without service.

16466. The defendant may not make any special appearance for any purpose except as provided in this article. Any appearance whatever of the defendant or any request to the court by the defendant or his or her attorney shall be entered as a general appearance in the contest.

No demurrer or objection may be taken by the parties in any other manner than by answer, and all the objections shall be contained in the answer.

16467. The court, if the defendant appears, shall require the answer to be made within three days from the time and place set for hearing. If the defendant does not appear the court shall note his default, and shall proceed to hear and determine the contest with all convenient speed.

CHAPTER 6. ELECTIONS OFFICIAL'S DUTIES

Article 1. Contest Procedures at General Elections

16500. Within five days after the end of the time allowed for filing statements of contest, the county elections official shall notify the superior court of the county of all statements filed. The presiding judge shall forthwith designate the time and place of hearing, which time shall be not less than 10 nor more than 20 days from the date of the order.

16501. The elections official shall thereupon issue a citation for the defendant to appear at the time and place specified in the order, which citation shall be delivered to the sheriff and served upon the party at least five days before the time so specified, by either of the following methods:

(a) Personally.

(b) If the party cannot be found, by leaving a copy at the house where he or she last resided.

16502. The elections official shall issue subpoenas for witnesses at the request of any party, which shall be served as other subpoenas. The superior court may issue attachments to compel the attendance of witnesses who have been subpoenaed to attend.

16503. The contestant shall, in the first instance, be liable for the expenses involved in making any recount. He or she shall pay into court in advance each day a sum that the judge finds sufficient to pay all recount expenses that will have accrued by the end of that day. The sums paid shall be part of the costs. The county elections official may pay each day the clerical assistants necessary for the recount from the amount advanced by the contestant without the necessity of the funds being first deposited with the county treasurer.

Article 2. Contest Procedures at Primary Elections: Contests Other than Recount

16520. The county elections official, within five days after the end of the time for filing affidavits, shall present all the affidavits to the presiding judge of the superior court. The presiding judge shall forthwith designate the time and place of hearing, which shall be not less than 10 nor more than 20 days from the date of the order.

16521. The county elections official, after an order setting a contest for trial, shall issue a citation to both parties containing a copy of the order. He or she shall deliver it to the sheriff who shall serve it either upon the parties or leave it at the residences named in the affidavits of registration of the parties.

Article 3. Contest Procedures at Primary Elections: Involving a Recount

16540. On the fifth day after the end of the time for filing contestant's affidavit, the county elections official shall present the affidavits of the contestant and the defendant and proof of posting of contestant's affidavit to the presiding judge of the superior court, or anyone acting in his or her stead, who shall forthwith designate the time and place of hearing, the time for which shall be not less than 10 nor more than 20 days from the date of the order.

CHAPTER 7. COURT'S DUTIES

Article 1. General Elections

16600. The court shall meet at the time and place designated, to determine the contested election, and shall have all the powers necessary to the determination thereof. It may adjourn from day to day until the trial is ended, and may also continue the trial before its commencement for any time not exceeding 20 days for good cause shown by any party upon affidavit, at the costs of the party applying for the continuance.

16601. At the trial the ballots shall be opened and a recount taken, in the presence of all the parties, of the votes cast for the various candidates in all contests where it appears from the statements filed that a recount is necessary for the proper determination of the contest. The recount shall include a tabulation of all names written upon a ballot and which are subject to canvass pursuant to Chapter 7 (commencing with Section 15350) of Division 15.

16602. In the trial and determination of election contests, the court shall be governed by the rules of law and evidence governing the determination of questions of law and fact, so far as the same may be applicable. It may dismiss the proceedings if the statement of the cause of the contest is insufficient, or for want of prosecution.

16603. The court shall continue in special session to hear and

determine all issues arising in contested elections. After hearing the proofs and allegations of the parties and within 10 days after the submission thereof, the court shall file its findings of fact and conclusions of law, and immediately thereafter shall pronounce judgment in the premises, either confirming or annulling and setting aside the election. The judgment shall be entered immediately thereafter.

Article 2. Primary Elections: Contests Other than Recount

16620. The court shall meet at the time and place designated in the order setting the contest for trial, and shall have all powers necessary to determine the issues.

Article 3. Primary Elections: Contests Involving a Recount

16640. If the number of votes that are sought to be recounted or the number of contests are such that the judge in a county in which there is but one superior court judge is of the opinion that it will require additional judges to enable the contest or contests to be determined in time to print the ballots for the election, he or she may obtain the service of any other superior judge, and the proceedings shall be the same as provided for a county in which there is more than one superior court judge.

16641. If the proceeding is in a county where there is more than one superior court judge, the judge to whom the case is assigned shall notify the presiding judge forthwith of the number of judges which he or she deems necessary to participate in order to finish the contest in time to print the ballots for the final election. The presiding judge shall forthwith designate as many judges as are necessary to completion of the contest, by order in writing and thereupon all of the judges so designated shall participate in the recount of the ballots and the giving of judgment in the contest in the manner specified in this article.

16642. The judges designated by the order to hear the contest, including the judge to whom the contest was originally assigned, shall convene upon notice from the judge to whom the contest was originally assigned, and agree upon the precincts which each one of them, sitting separately, will recount. Thereupon the recount shall so proceed that each judge, sitting separately, shall respectively determine the recount in those precincts which have been assigned to him or her, so that the ballots opened before one judge need not be opened before another judge or department.

16643. The proceedings before every judge in making a recount of the precincts assigned to him or her, as to the appointment of the elections official and persons necessary to be assistants of the court in making it, shall be the same as in contested elections. Section 16503 applies to the recount.

CHAPTER 8. COURT'S DECISIONS, JUDGMENT, AND DETERMINATIONS

Article 1. General Elections

16700. The person declared elected by the superior court is entitled to a certificate of election. If a certificate has not already been issued to him or her, the county elections official shall immediately make out and deliver to that person a certificate of election signed by him or her, and authenticated with the seal of the superior court.

16701. If the elections official has issued any certificate for the same office to any other person than the one declared elected by the court, or if the court finds a tie vote in a general election contest brought under this division, the certificate is annulled by the judgment.

16702. Whenever an election is annulled or set aside by the judgment of the superior court, and no appeal has been taken within 10 days thereafter, the commission, if any has issued, is void and the office vacant.

16703. If in any election contest it appears that another person than the defendant has the highest number of legal votes, the court shall declare that person elected.

Article 2. Primary Elections: Other than Recount

16720. After the court has heard the proofs and allegations of the parties, it shall file its findings of fact and conclusions of law and immediately pronounce judgment either confirming the nomination or setting it aside and decreeing contestant nominated.

Article 3. Primary Elections: Involving a Recount

16740. When the recount has been completed in the manner required by Article 4 (commencing with Section 16460) of Chapter 5, and Article 3 (commencing with Section 16640) of Chapter 7, all the judges who took part, if more than one, shall assemble and make the decision of the court. If there is any difference of opinion, a majority of the judges shall finally determine all questions, and give a separate decision or judgment in each contest.

16741. A certified copy of the judgment shall be served upon the county elections official and may be enforced summarily in the same manner as provided in Section 13314.

16742. If the contest proceeds in more than one county, and the nominee is to be certified by the Secretary of State from the compilation of election returns in his or her office, the judgment in each county in which there has been a contest shall show what, if any, changes in the returns in the office of the Secretary of State relating to that county ought to be made. Certified copies of the judgments

shall be served upon the Secretary of State. He or she shall make the changes in the record in his or her office as each judgment requires, and conform his or her compilation and his or her certificate of nomination accordingly.

CHAPTER 9. COSTS

16800. If the proceedings in a general election contest under this division are dismissed for insufficiency or for want of prosecution, or the election is confirmed by the court, judgment for costs shall be rendered against the contestant and in favor of the defendant. If the election is annulled or set aside on the ground of errors of a precinct board in conducting the election or in canvassing the returns, the costs shall be a charge against the county or city where the election was held. When the election is annulled or set aside on any other ground, judgment for costs shall be given in favor of contestant and against the defendant.

16801. Where two or more contested elections are joined for the purpose of recounting votes, the costs shall be apportioned among the parties in the discretion of the court.

16802. Primarily each party is liable for the costs created by himself or herself to the officers and witnesses entitled thereto, which costs may be collected in the same manner as similar costs are collected in other cases.

16803. The provisions relating to costs in contested final elections apply to primary election contests conducted under this division.

CHAPTER 10. APPEALS

Article 1. General Elections

16900. Any party aggrieved by the judgment of the court may appeal therefrom to the court of appeal, as in other cases of appeal thereto from the superior court. During the pendency of proceedings on appeal, and until final determination thereof, the person declared elected by the superior court shall be entitled to the office in like manner as if no appeal had been taken.

Article 2. Primary Elections: Other than a Recount

16920. Either party to a contest may appeal to the district court of appeal of the district where the contest is brought, if the appeal is perfected by the appellant within 10 days after judgment of the superior court is pronounced. The appeal shall have precedence over all other appeals and shall be acted upon by the district court of appeal within 10 days after the appeal is filed.

Article 3. Primary Elections: Involving a Recount

16940. The judgment of the court is final in every respect. No party may appeal.

DIVISION 17. RETENTION AND PRESERVATION OF ELECTION RECORDS

CHAPTER 1. AFFIDAVITS OF REGISTRATION AND VOTER REGISTRATION INDEXES

17000. (a) The elections official shall preserve all canceled original affidavits of registration for a period of five years, after which they may be destroyed by that officer.

(b) In lieu of preserving the canceled original affidavit of registration, the elections official may, by filming or other suitable method, record the canceled affidavit and destroy the affidavit following the first general election after the date of cancellation.

17001. The elections official shall keep a copy of the index to the affidavits of registration described in Section 2180 on file as a public record for election, political research, and governmental purposes for a period of five years.

CHAPTER 2. NOMINATION DOCUMENTS

17100. (a) All nomination documents and signatures in lieu of filing fee petitions filed in accordance with this code shall be held by the officer with whom they are filed during the term of office for which they are filed and for four years after the expiration of the term.

(b) Thereafter, the documents and petitions shall be destroyed as soon as practicable unless they either are in evidence in some action or proceeding then pending or unless the elections official has received a written request from the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a grand jury, or the governing body of a county, city and county, or district, including a school district, that the documents and petitions be preserved for use in a pending or ongoing investigation into election irregularities, the subject of which relates to the placement of a candidate's name on the ballot, or in a pending or ongoing investigation into a violation of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

CHAPTER 3. INITIATIVE AND REFERENDUM PETITIONS

17200. (a) Elections officials required by law to receive or file in their offices any initiative or referendum petition shall preserve the petition until eight months after the certification of the results of the election for which the petition qualified or, if the measure, for any

reason, is not submitted to the voters, eight months after the final examination of the petition by the elections official.

(b) Thereafter, the petition shall be destroyed as soon as practicable unless it is in evidence in some action or proceeding then pending or unless the elections official has received a written request from the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a grand jury, or the governing body of a county, city and county, or district, including a school district, that the petition be preserved for use in a pending or ongoing investigation into election irregularities, the subject of which relates to the petition's qualification or disqualification for placement on the ballot, or in a pending or ongoing investigation into a violation of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(c) Public access to any such petition shall be restricted in accordance with Section 6253.5 of the Government Code.

(d) This section shall apply to the following petitions:

(1) Statewide initiative and referendum petitions.

(2) County initiative and referendum petitions.

(3) Municipal initiative and referendum petitions.

(4) Municipal city charter amendment petitions.

(5) District initiative and referendum petitions.

CHAPTER 4. PRECINCT SUPPLIES AND BALLOTS

17300. (a) The elections official shall preserve all rosters of voters or combined rosters and indexes as provided for in Section 14109, if applicable, until five years after the date of the election, after which they may be destroyed by that official.

(b) In lieu of preserving the original roster of voters, the elections official may, by filming or other suitable method, record the original roster of voters and destroy the roster following the next subsequent general election.

17301. (a) The following provisions shall apply to those elections where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.

(b) The packages containing the following ballots and identification envelope shall be kept by the elections official, unopened and unaltered, for 22 months from the date of the election:

(1) Voted polling place ballots.

(2) Voted absent voter ballots.

(3) Absent voter identification envelopes.

(4) Spoiled ballots.

(5) Canceled ballots.

(6) Unused absentee ballots surrendered by the voter pursuant to Section 3015.

(7) Ballot receipts.

(c) If a contest is not commenced within the 22-month period, or

if a criminal prosecution involving fraudulent use, marking or falsification of ballots or forgery of absent voters' signatures is not commenced within the 22-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official shall have the ballots destroyed or recycled. The packages shall otherwise remain unopened until the ballots are destroyed or recycled.

17302. (a) The following provisions shall apply to all state or local elections not provided for in subdivision (a) of Section 17301. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The packages containing the following ballots and identification envelopes shall be kept by the elections official, unopened and unaltered, for six months from the date of the election:

(1) Voted polling place ballots.

(2) Voted absent voter ballots.

(3) Absent voter identification envelopes.

(4) Spoiled ballots.

(5) Canceled ballots.

(6) Unused absent voter ballots surrendered by the voter pursuant to Section 3015.

(7) Ballot receipts.

(c) If a contest is not commenced within the six-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots or forgery of absent voters' signatures is not commenced within the six-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official shall have the packages destroyed or recycled. The packages shall otherwise remain unopened until the ballots are destroyed or recycled.

17303. (a) The following provisions shall apply to those elections where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.

(b) The elections official shall preserve the package or packages containing the following items for a period of 22 months:

(1) Two tally sheets.

(2) The copy of the index used as the voting record.

(3) The challenge lists.

(4) The assisted voters list.

(c) All voters may inspect the contents of the package or packages at all times following commencement of the official canvass of the votes.

(d) If a contest is not commenced within the 22-month period, or if a criminal prosecution involving fraudulent use, marking, or falsification of ballots or forgery of absent voters' signatures is not commenced within the 22-month period, either of which may

involve the vote of the precinct from which voted ballots were received, the elections official may have the packages destroyed or recycled.

17304. (a) The following provisions shall apply to all state or local elections not provided for in subdivision (a) of Section 17303. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The elections official shall preserve the package or packages containing the following items for a period of six months:

(1) Two tally sheets.

(2) The copy of the index used as the voting record.

(3) The challenge lists.

(4) The assisted voters list.

(c) All voters may inspect the contents of the package or packages at all times following commencement of the official canvass of the votes.

(d) If a contest is not commenced within the six-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots, or forgery of absent voters' signatures is not commenced within the six-month period, either of which may involve the vote of the precinct from which voted ballots were received, the election official may have the packages destroyed or recycled.

17305. (a) The following provisions shall apply to those elections where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.

(b) Upon the completion of the counting of the votes as provided in Article 4 (commencing with Section 15640) of Chapter 12 of Division 15, all ballot cards shall be arranged by precincts and shall be kept by the elections official for 22 months from the date of the election or so long thereafter as any contest involving the vote at the election remains undetermined.

(c) Notwithstanding any other provision of this code, the final disposition of all voted ballot cards shall be determined by the elections official.

(d) Sealed ballot containers may be opened if the elections official determines it is necessary in a shredding or recycling process. Nothing in this section shall be construed to allow packages or containers to be opened except for purposes specified herein. The packages or containers shall otherwise remain unopened until the ballots are destroyed or recycled.

17306. (a) The following provisions shall apply to all state or local elections not provided for in subdivision (a) of Section 17305. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) Upon the completion of the counting of the votes as provided

in Article 4 (commencing with Section 15640) of Chapter 12 of Division 15, all ballot cards shall be arranged by precincts and shall be kept by the elections official for six months from the date of the election or so long thereafter as any contest involving the vote at the election remains undetermined.

(c) Notwithstanding any other provision of this code, the final disposition of all voted ballot cards shall be determined by the elections official.

(d) Sealed ballot containers may be opened if the elections official determines it is necessary in a shredding or recycling process. Nothing in this section shall be construed to allow packages or containers to be opened except for purposes specified herein. The packages or containers shall otherwise remain unopened until the ballots are destroyed or recycled.

CHAPTER 5. RECALL PETITIONS

17400. (a) The elections official or, in the case of the recall of a state officer, the Secretary of State, shall preserve in his or her office all recall petitions filed for eight months after the results of the election for which the petition qualified or, if no election is held, eight months after the elections official's final examination of the petition.

(b) Thereafter, the petition shall be destroyed as soon as practicable, unless it is in evidence in some action or proceeding then pending or unless the elections official has received a written request from the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a grand jury, or the governing body of a county, city and county, city, or district, including a school district, that the petition be preserved for use in a pending or ongoing investigation into election irregularities, or in a pending or ongoing investigation into a violation of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(c) Public access to any such petition shall be restricted in accordance with Section 6253.5 of the Government Code.

CHAPTER 6. MISCELLANEOUS PROVISIONS

17500. (a) A copy of each election computer vote count program for a statewide election or state special election to fill vacancies shall be deposited with the Secretary of State.

(b) The copy of the election computer vote count program specified in subdivision (a) shall be received by the Secretary of State no later than 5 p.m. on the seventh day before the election.

(c) If the election computer vote count program is modified or altered after the submission specified in subdivision (a), the elections official shall immediately deposit the subsequent program no later than noon on the day of the election.

(d) The Secretary of State shall hold the deposited programs for a period of not less than six months, at which time the program shall be returned to the elections official.

(1) The elections official shall preserve the returned program for a period of 16 months.

(2) The programs deposited in accordance with this section shall be used only for an official recount, court action, or for logic and accuracy tests required by the Secretary of State.

(e) The Secretary of State may seek injunctive relief requiring county elections officials to submit the computer vote count program specified in subdivision (a). Venue for a proceeding under this section shall be exclusively in Sacramento County.

17501. Following each general election, the county elections official shall file copies of all precinct maps with the Secretary of State. If there is no change in the precinct maps from those maps that are currently on file, in lieu of filing copies of those maps with the Secretary of State, the elections official may submit a written statement informing the Secretary of State of that fact. The Secretary of State shall maintain a file of all the copies for 12 years and shall, upon request, make them available for examination.

17502. (a) The following provisions shall apply to those elections where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.

(b) The elections official shall preserve the following records reflecting the appointment of precinct officials until 22 months from the date of any election.

(1) Precinct officers' declaration of intention required by Section 12321.

(2) Precinct board member applications specified in Section 12300.

(3) Order appointing members of the several precinct boards and designating the polling places specified in Section 12326.

(4) Nominations for appointment to the precinct board by the county central committee of each qualified political party specified in Section 12306.

(5) Written orders appointing precinct board members or designating the polling place for the precinct pursuant to Section 12327.

17503. (a) The following provisions shall apply to all state or local elections not provided for in subdivision (a) of Section 17502. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The elections official shall preserve the following records reflecting the appointment of precinct officials until six months from the date of an election.

(1) Precinct officers' declaration of intention required by Section 12321.

(2) Precinct board member applications specified in Section 12300.

(3) Order appointing members of the several precinct boards and designating the polling places specified in Section 12326.

(4) Nominations for appointment to the precinct board by the county central committee of each qualified political party specified in Section 12306.

(5) Written orders appointing precinct board members or designating the polling place for the precinct pursuant to Section 12327.

17504. (a) The following provisions apply to those elections where candidates for one or more of the following offices are voted upon: President of the United States, Vice President of the United States, United States Senator, and United States Representative.

(b) The elections official shall preserve all applications for absent voter ballots for a period of 22 months from the date of the election.

17505. (a) The following provisions apply to all state or local elections not provided for in subdivision (a) of Section 17504. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The elections official shall preserve all applications for absent voter ballots for a period of six months from the date of the election.

17506. The elections official shall preserve the list of new resident voters voting pursuant to Chapter 5 (commencing with Section 3400) of Division 3 for 22 months from the date of the election.

DIVISION 18. PENAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

18000. This division applies to all elections.

18001. Upon a conviction for any crime punishable by imprisonment in any jail or prison, in relation to which no fine is herein prescribed, the court may impose a fine on the offender not exceeding one thousand dollars ($1,000) in cases of misdemeanors or ten thousand dollars ($10,000) in cases of felonies, in addition to the imprisonment prescribed.

18002. Every person charged with the performance of any duty under any law of this state relating to elections, who willfully neglects or refuses to perform it, or who, in his or her official capacity, knowingly and fraudulently acts in contravention or violation of any of those laws, is, unless a different punishment is prescribed by this code, punishable by fine not exceeding one thousand dollars ($1,000) or by imprisonment in the state prison for 16 months or two or three years, or by both.

CHAPTER 2. VOTER REGISTRATION

18100. (a) Every person who willfully causes, procures, or allows himself or herself or any other person to be registered as a voter, knowing that he or she or that other person is not entitled to registration, is punishable by imprisonment in the state prison for 16 months or two or three years, or in a county jail for not more than one year.

(b) Every person who knowingly and willfully signs, or causes or procures the signing of, an affidavit of registration of a nonexistent person, and who mails or delivers, or causes or procures the mailing or delivery of, that affidavit to a county elections official is guilty of a crime punishable by imprisonment in the state prison for 16 months or two or three years, or in a county jail for not more than one year. For purposes of this subdivision, "nonexistent person" includes, but is not limited to, deceased persons, animals, and inanimate objects.

18101. Every person who knowingly and willfully completes, or causes or procures the completion of, in whole or in part, an affidavit of registration or a voter registration card, with the intent to cause the registration or reregistration as a voter of a fictitious person or of any person who has not requested registration or reregistration as a voter, is guilty of a crime punishable by imprisonment in the state prison for 16 months or two or three years, or in a county jail for not more than one year.

18102. Any deputy elections official or registration elections official who knowingly registers a nonexistent person, knowingly registers a person under a false name or address, or knowingly registers a person who is ineligible to register is punishable by imprisonment in the state prison for 16 months or two or three years or in county jail for not more than one year.

18103. Any person who knowingly or negligently (a) interferes with the prompt transfer of a completed affidavit of registration to the county elections official, (b) retains a voter's completed registration card, without the voter's authorization, for more than three days, excluding Saturdays, Sundays, and state holidays, or after the close of registration, or (c) denies a voter the right to return to the county elections official the voter's own completed registration card, is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000).

18104. Any deputy registrar of voters having charge of affidavits of registration is guilty of a misdemeanor who knowingly neglects or refuses to return affidavits of registration as provided in Article 3 (commencing with Section 2135) of Chapter 2 of Division 2. The county elections official shall report to the district attorney of the county, under oath, the names of any deputies who have failed to return the affidavits. The district attorney shall take appropriate civil or criminal action.

18105. No affidavit of registration or voter registration card shall contain, and no person other than the registrant shall write on or affix

thereto, or cause to be written on or affixed thereto, any statement urging or indicating support or opposition to any candidate or measure.

Any person who violates this section is guilty of a misdemeanor.

18106. Every person is punishable by imprisonment in the state prison for 16 months or two or three years or in the county jail for not more than one year who, without the specific consent of the affiant, willfully and with the intent to affect the affiant's voting rights, causes, procures, or allows the completion, alteration, or defacement of the affiant's party affiliation declaration contained in an executed, or partially executed, affidavit of registration pursuant to subdivision (h) of Section 2150 and Section 2151.

This section shall not apply to a county elections official carrying out his or her official duties.

18107. Every person who willfully violates Section 2158 is guilty of an infraction, punishable by a fine not to exceed two hundred dollars ($200).

18108. Any person who, in exchange for money or other valuable consideration, assists another to register to vote by receiving the completed affidavit of registration from the elector, and fails to provide the information required by Section 2159, is guilty of a misdemeanor.

18109. (a) It is a misdemeanor for any person in possession of information obtained pursuant to Article 5 (commencing with Section 2180) of Chapter 2 of Division 2, or Section 6254.4 of the Government Code, knowingly to use or permit the use of all or any part of that information for any purpose other than as permitted by law.

(b) It is a misdemeanor for any person knowingly to acquire possession or use of voter registration information referred to in subdivision (a) without first complying with Section 2188.

18110. (a) For purposes of this section, "home address" means only street address and does not include an individual's city or post office address.

(b) Any person or public entity who, in violation of Section 2194, discloses the home address or telephone number listed on a voter registration card of any of the following individuals is guilty of a misdemeanor:

(1) An active or retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(2) An employee of a city police department or a county sheriff's office.

(3) The spouse or children of the individuals specified in paragraphs (1) and (2) who live with those individuals.

(c) Any person or public entity, who in violation of Section 2194, discloses the home address or telephone number listed on a voter registration card of any individual specified in paragraph (1), (2), or (3) of subdivision (b), and that violation results in bodily injury to any of those individuals, is guilty of a felony.

(Added by Stats. 1994, Ch. 1207.)

CHAPTER 3. NOMINATION OF CANDIDATES

18200. Every person who subscribes to any nomination petition a fictitious name, or who intentionally subscribes thereto the name of another, or who causes another to subscribe a fictitious name to a nomination petition, is guilty of a felony and is punishable by imprisonment in the state prison for 16 months or two or three years.

18201. Any person who falsely makes or fraudulently defaces or destroys all or any part of a nomination paper, is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the state prison for 16 months or two or three years or by both the fine and imprisonment.

18202. Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any nomination paper or declaration of candidacy in his or her possession that is entitled to be filed under this code.

18203. Any person who files or submits for filing a nomination paper or declaration of candidacy knowing that it or any part of it has been made falsely is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the state prison for 16 months or two or three years or by both the fine and imprisonment.

18204. Any person who willfully suppresses all or any part of a nomination paper or declaration of candidacy either before or after filing is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the state prison for 16 months or two or three years or by both the fine and imprisonment.

18205. A person shall not directly or through any other person advance, pay, solicit, or receive or cause to be advanced, paid, solicited, or received, any money or other valuable consideration to or for the use of any person in order to induce a person not to become or to withdraw as a candidate for public office. Violation of this section shall be punishable by imprisonment in the state prison for 16 months or two or three years.

CHAPTER 4. ELECTION CAMPAIGNS

Article 1. Campaign Literature

18300. (Repealed by Stats. 1994, Ch. 1189.)

[ORIGINAL SECTION]

18300. In addition to any other penalty, no payment shall be made or allowed to any person in consideration for his or her having prepared, printed, published, or circulated, or assisted in the preparation, printing, publishing, or circulating of any advertisement, bill, placard, poster, or other printed or duplicated matter in violation of Section 20003. Any person who knowingly pays or receives a payment in violation of this section is guilty of a misdemeanor.

18301. In addition to any other penalty, any person who prints or otherwise duplicates, or causes to be printed or duplicated, a simulated ballot or simulated sample ballot that does not contain the statement required by Section 20009 or that uses an official seal or insignia in violation thereof, is guilty of a misdemeanor.

18302. Every person is guilty of a misdemeanor who knowingly causes to be mailed or distributed, or knowingly mails or distributes, literature to any voter that includes a designation of the voter's precinct polling place other than a precinct polling place listed for that voter in an official precinct polling list that constituted the latest official precinct polling list at sometime not more than 30 days prior to the mailing or distribution.

18303. Every person who violates Section 84305 of the Government Code relating to mass mailing is subject to the penal provisions set forth in Chapter 11 (commencing with Section 91000) of Title 9 of the Government Code.

Article 2. Political Party Caucuses

18310. A person shall not directly or through any other person pay or receive any money or other valuable consideration before, during, or after an election in order to reward any person or as a reward for voting for or against or agreeing to vote for or against the election or endorsement of any other person as the nominee or candidate of any caucus, convention, organized assemblage of delegates, or other body representing or claiming to represent a political party, candidate, or principle, or any club, society, or association. A violation of this section shall be punishable by imprisonment in the state prison for 16 months or two or three years.

18311. Every person is punishable by imprisonment in the state prison for 16 months or two or three years who:

(a) Gives or offers a bribe to any officer or member of any political convention, committee, or political gathering of any kind, held for the purpose of nominating candidates for offices of honor, trust, or profit in this state, with intent to influence the person to whom the bribe is given or offered to be more favorable to one candidate than another.

(b) Being a member of any of the bodies mentioned in this section receives or offers to receive any bribe described in subdivision (a).

Article 3. Claims of Endorsements

18320. (Repealed by Stats. 1994, Ch. 1189.)

[ORIGINAL SECTION]

18320. No candidate for nomination of a political party for a partisan office in the direct primary election shall claim, nor shall any other person claim on his or her behalf, that he or she is the official candidate or the officially endorsed candidate of the political party. A violation of this section by any person shall constitute a misdemeanor.

Article 4. Political Meetings

18340. Every person who, by threats, intimidations, or unlawful violence, willfully hinders or prevents electors from assembling in public meetings for the consideration of public questions is guilty of a misdemeanor.

Article 5. Misrepresentation by Candidates

18350. Every person is guilty of a misdemeanor who, with intent to mislead the voters in connection with his or her campaign for nomination or election to a public office or in connection with the campaign of another person for nomination or election to a public office, does either of the following acts:

(a) Assume, pretend, or imply, by his or her statements or conduct, that he or she is the incumbent of a public office when that is not the case.

(b) Assume, pretend, or imply, by his or her statements or conduct, that he or she is or has been acting in the capacity of a public officer when that is not the case.

Any violation of this section may be enjoined in a civil action brought by any candidate for the public office involved.

18351. Any candidate in an election or incumbent in a recall election who knowingly makes a false statement of a material fact in a candidate's statement, prepared pursuant to Section 11327 or 13307, with the intent to mislead the voters in connection with his or her campaign for nomination or election to a nonpartisan office is punishable by a fine not to exceed one thousand dollars ($1,000).

Article 6. Solicitation of Funds

18360. Any person who violates Section 20201 is guilty of a misdemeanor.

18361. Upon the complaint of the affected candidate or committee, any person who violates Section 20202 or 20203 is guilty of a misdemeanor.

Article 7. Electioneering

18370. No person, on election day, shall, within 100 feet of a polling place:

(a) Circulate an initiative, referendum, recall, or nomination petition or any other petition.

(b) Solicit a vote or speak to a voter on the subject of marking his ballot.

(c) Place a sign relating to voters' qualifications or speak to a voter on the subject of his qualifications except as provided in Section

14240.

(d) Do any electioneering.

As used in this section "100 feet of a polling place" means a distance 100 feet from the room or rooms in which voters are signing the roster and casting ballots.

Any person who violates any of the provisions of this section is guilty of a misdemeanor.

18371. (a) No candidate or representative of a candidate, and no proponent, opponent, or representative of a proponent or opponent, of an initiative, referendum, or recall measure, or of a charter amendment, shall solicit the vote of an absentee voter, or do any electioneering, while in the residence or in the immediate presence of the voter, and during the time he or she knows the absentee voter is voting.

(b) Any person who knowingly violates this section is guilty of a misdemeanor.

(c) This section shall not be construed to conflict with any provision of the federal Voting Rights Act of 1965, as amended, nor to preclude electioneering by mail or telephone or in public places, except as prohibited by Section 18370, or by any other provision of law.

Article 8. Vandalism at Polling Places

18380. (a) No person, during any election, shall do any of the following:

(1) Remove or destroy any of the supplies or other conveniences placed in the voting booths or compartments for the purpose of enabling the voter to prepare his or her ballot.

(2) Remove, tear down, or deface the cards printed for the instruction of voters.

(3) Remove, tear, mark or otherwise deface any voter index with the intent to falsify or prevent others from readily ascertaining the name, address, or political affiliation of any voter, or the fact that a voter has or has not voted.

(4) Remove, tear down, or deface the signs identifying the location of a polling place or identifying areas within 100 feet of a polling place.

(b) Any person who violates any of the provisions of this section is guilty of a misdemeanor.

Article 9. Misuse of State Publications

18390. No agency or department of the state may use its publications to advise state employees of any constitutional officer's choice of candidates for public office or for recommending positions on specific ballot propositions not related to the functions of that agency or department.

For purposes of this section "publications" means any written or

printed matter including, but not limited to, agency or department memorandums or directives, but shall not include legislative newsletters or state ballot pamphlets.

Any state officer who violates this section is guilty of a misdemeanor.

CHAPTER 5. BALLOTS

18400. Any person who makes, uses, keeps, or furnishes to others, any paper or punchcards watermarked or overprinted in imitation of ballot paper or punchcards is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the state prison for 16 months, two or three years, or by both the fine and imprisonment.

18401. Every person who prints any ballot not in conformity with Chapter 2 (commencing with Section 13100) of Division 13, or who circulates or gives to another any ballot, knowing at the time that the ballot does not conform to Chapter 2 (commencing with Section 13100) of Division 13, is guilty of a misdemeanor.

18402. Any individual, group, or organization that knowingly distributes any application for an absent voter's ballot that does not conform to Chapter 1 (commencing with Section 3000) of Division 3 is guilty of a misdemeanor.

18403. Any person other than an elections official or a member of the precinct board who receives a voted ballot from a voter or who examines or solicits the voter to show his or her voted ballot is punishable by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment. This section shall not apply to persons returning an absentee ballot pursuant to Sections 3017 and 3021 or persons assisting a voter pursuant to Section 14282.

CHAPTER 6. CORRUPTION OF THE VOTING PROCESS

Article 1. General Provisions

18500. Any person who commits fraud or attempts to commit fraud, and any person who aids or abets fraud or attempts to aid or abet fraud, in connection with any vote cast, to be cast, or attempted to be cast, is guilty of a felony, punishable by imprisonment for 16 months or two or three years.

18501. Any public official who knowingly violates any of the provisions of this chapter, and thereby aids in any way the illegal casting or attempting to cast a vote, or who connives to nullify any of the provisions of this chapter in order that fraud may be perpetrated, shall forever be disqualified from holding office in this state and upon conviction shall be sentenced to a state prison for 16 months or two or three years.

18502. Any person who in any manner interferes with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, as to prevent the election or canvass from being fairly held and lawfully conducted, is punishable by imprisonment in the state prison for 16 months or two or three years.

Article 2. Corruption of Voters

18520. A person shall not directly or through another person give, offer, or promise any office, place, or employment, or promise to procure or endeavor to procure any office, place, or employment to or for any voter, or to or for any other person, in order to induce that voter at any election to:

(a) Refrain from voting.

(b) Vote for any particular person.

(c) Refrain from voting for any particular person.

A violation of any of the provisions of this section shall be punishable by imprisonment in the state prison for 16 months or two or three years.

18521. A person shall not directly or through any other person receive, agree, or contract for, before, during or after an election, any money, gift, loan, or other valuable consideration, office, place, or employment for himself or any other person because he or any other person:

(a) Voted, agreed to vote, refrained from voting, or agreed to refrain from voting for any particular person or measure.

(b) Remained away from the polls.

(c) Refrained or agreed to refrain from voting.

(d) Induced any other person to:

(1) Remain away from the polls.

(2) Refrain from voting.

(3) Vote or refrain from voting for any particular person or measure.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

18522. Neither a person nor a controlled committee shall directly or through any other person or controlled committee pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) Induce any voter to:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) Remain away from the polls at an election.

(b) Reward any voter for having:

(1) Refrained from voting.

(2) Voted for any particular person or measure.

(3) Refrained from voting for any particular person or measure.

(4) Remained away from the polls at an election.

Any person or candidate violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

(Added by Stats. 1994, Ch. 818.)

[ORIGINAL SECTION]

18522. A person shall not, directly or through any other person pay, lend, or contribute, or offer or promise to pay, lend, or contribute, any money or other valuable consideration to or for any voter or to or for any other person to:

(a) Induce any voter to:

(1) Refrain from voting at any election.

(2) Vote or refrain from voting at an election for any particular person or measure.

(3) Remain away from the polls at an election.

(b) Reward the voter for having:

(1) Refrained from voting.

(2) Voted for any particular person or measure.

(3) Refrained from voting for any particular person or measure.

(4) Remained away from the polls at an election.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

18523. A person shall not directly or through any other person advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that it, or any part thereof, shall be used in bribery at any election, or knowingly pay or cause to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part, expended in bribery at any election.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

18524. A person shall not directly or through any other person advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that it, or any part thereof, will be used for boarding, lodging, or maintaining a person at any place or domicile in any election precinct, ward, or district, with intent to secure the vote of that person or to induce that person to vote for any particular person or measure.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

Article 3. Intimidation of Voters

18540. (a) Every person who makes use of or threatens to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

(b) Every person who hires or arranges for any other person to make use of or threaten to make use of any force, violence, or tactic of coercion or intimidation, to induce or compel any other person to vote or refrain from voting at any election or to vote or refrain from voting for any particular person or measure at any election, or because any person voted or refrained from voting at any election or voted or refrained from voting for any particular person or measure at any election is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years.

18541. (a) No person shall, with the intent of dissuading another person from voting, within 100 feet of a polling place:

(1) Solicit a vote or speak to a voter on the subject of marking his or her ballot.

(2) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240.

(b) Any person who violates this section is punishable by imprisonment in the county jail for not more than 12 months, or in the state prison. Any person who conspires to violate this section is guilty of a felony.

(c) For purposes of this section, 100 feet means a distance of 100 feet from the room or rooms in which voters are signing the roster and casting ballots.

18542. Every employer, whether a corporation or natural person, or any other person who employs, is guilty of a misdemeanor if, in paying his or her employees the salary or wages due them, encloses their pay in pay envelopes upon which or in which there is written or printed the name of any candidate or any political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions or actions of the employees.

18543. (a) Every person who knowingly challenges a person's right to vote without probable cause or on fraudulent or spurious grounds, or who engages in mass, indiscriminate, and groundless challenging of voters solely for the purpose of preventing voters from

voting or to delay the process of voting, or who fraudulently advises any person that he or she is not eligible to vote or is not registered to vote when in fact that person is eligible or is registered, or who violates Section 14240, is punishable by imprisonment in the county jail for not more than 12 months or in the state prison.

(b) Every person who conspires to violate subdivision (a) is guilty of a felony.

18544. (a) Any person in possession of a firearm or any uniformed peace officer, private guard, or security personnel or any person who is wearing a uniform of a peace officer, guard, or security personnel, who is stationed in the immediate vicinity of, or posted at, a polling place without written authorization of the appropriate city or county elections official is punishable by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment.

(b) This section shall not apply to any of the following:

(1) An unarmed uniformed guard or security personnel who is at the polling place to cast his or her vote.

(2) A peace officer who is conducting official business in the course of his or her public employment or who is at the polling place to cast his or her vote.

(3) A private guard or security personnel hired or arranged for by a city or county elections official.

(4) A private guard or security personnel hired or arranged for by the owner or manager of the facility or property in which the polling place is located if the guard or security personnel is not hired or arranged solely for the day on which an election is held.

18545. Any person who hires or arranges for any other person in possession of a firearm or any uniformed peace officer, private guard, or security personnel or any person who is wearing a uniform of a peace officer, guard, or security personnel, to be stationed in the immediate vicinity of, or posted at, a polling place without written authorization of the appropriate elections official is punishable by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment. This section shall not apply to the owner or manager of the facility or property in which the polling place is located if the private guard or security personnel is not hired or arranged solely for the day on which the election is held.

18546. As used in this article:

(a) "Elections official" means county clerk, registrar of voters, or city clerk.

(b) "Immediate vicinity" means the area within a distance of 100 feet from the room or rooms in which the voters are signing the roster and casting ballots.

Article 4. Corruption of Voting

18560. Every person is guilty of a crime punishable by imprisonment in the state prison for 16 months or two or three years, or in county jail not exceeding one year, who:

(a) Not being entitled to vote at an election, fraudulently votes or fraudulently attempts to vote at that election.

(b) Being entitled to vote at an election, votes more than once, attempts to vote more than once, or knowingly hands in two or more ballots folded together at that election.

(c) Impersonates or attempts to impersonate a voter at an election.

18561. Every person is punishable by imprisonment in the state prison for 16 months or two or three years who:

(a) Procures, assists, counsels, or advises another to give or offer his vote at any election, knowing that the person is not qualified to vote.

(b) Aids or abets in the commission of any of the offenses mentioned in Section 18560.

18562. Every member of a precinct board is guilty of a misdemeanor who, prior to putting the ballot of a voter in the ballot box, commits any of the following:

(a) Attempts to find out any name on the ballot.

(b) Opens or suffers to be opened or examined the folded ballot of any voter which has been handed in.

(c) Makes or places any mark or device on any folded ballot with a view to ascertaining the name of any person for whom the voter has voted.

18563. Every member of a precinct board is guilty of a misdemeanor who, without the consent of a voter, discloses the name of any candidate the board member has discovered in his capacity as a member of the board to have been voted for by the voter.

18564. Any person is guilty of a felony, punishable by imprisonment in a state prison for two, three, or four years who, before or during an election:

(a) Tampers with, interferes with, or attempts to interfere with, the correct operation of, or willfully damages in order to prevent the use of, any voting machine, voting device, voting system, vote tabulating device, or ballot tally software program source codes.

(b) Interferes or attempts to interfere with the secrecy of voting or ballot tally software program source codes.

(c) Knowingly, and without authorization, makes or has in his or her possession a key to a voting machine that has been adopted and will be used in elections in this state.

(d) Willfully substitutes or attempts to substitute forged or counterfeit ballot tally software program source codes.

18565. Any person who aids or abets in the commission of any of the offenses described in Section 18564 is punishable by imprisonment in the county jail for a period of six months or in the

state prison for 16 months or two or three years.

18566. Every person is punishable by imprisonment in the state prison for two, three, or four years who:

(a) Forges or counterfeits returns of an election purported to have been held at a precinct where no election was in fact held.

(b) Willfully substitutes forged or counterfeit returns of election in the place of true returns for a precinct where an election was actually held.

18567. Every person who willfully adds to or subtracts from the votes actually cast at an election, in any official or unofficial returns, or who alters the returns, is punishable by imprisonment in the state prison for 16 months or two or three years.

18568. Every person is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the state prison for 16 months or two or three years, or by both the fine and imprisonment, who:

(a) Aids in changing or destroying any poll list or official ballot.

(b) Aids in wrongfully placing any ballots in the ballot container or in taking any therefrom.

(c) Adds or attempts to add any ballots to those legally polled at any election by fraudulently putting them into the ballot container, either before or after the ballots therein have been counted.

(d) Adds to or mixes with, or attempts to add to or mix with, the ballots polled, any other ballots, while they are being counted or canvassed or at any other time, with intent to change the result of the election, or allows another to do so, when in his or her power to prevent it.

(e) Carries away or destroys, attempts to carry away or destroy, or knowingly allows another to carry away or destroy, any poll list, ballot container, or ballots lawfully polled or who willfully detains, mutilates, or destroys any election returns.

(f) Removes any unvoted ballots from the polling place before the completion of the ballot count.

18569. Every person who aids or abets in the commission of any of the offenses mentioned in Section 18566, 18567, or 18568 is punishable by imprisonment in the county jail for the period of six months or in the state prison for 16 months or two or three years.

18570. Every person is guilty of a misdemeanor who does any one of the following:

(a) Removes or defaces any posted copy of the results of votes cast within the period of 48 hours from the official time fixed for the closing of the polls.

(b) Delays delivery of or changes the copy of the result of votes cast that is to be delivered to the city or county elections official.

18571. Any person acting on any counting board who refuses to obey any lawful order of the county elections official or his or her deputy is guilty of a misdemeanor, unless he or she is by his or her refusal guilty of a higher crime under the laws of this state.

18572. Each counting board and its members are subject to the

liabilities and penalties to which precinct boards or their members are subject where the votes and returns are counted at the precincts where they were polled.

18573. Every person is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years who furnishes any voter wishing to vote, who cannot read, with a ballot, informing or giving that voter to understand that it contains a name written or printed thereon different from the name which is written or printed thereon, or defrauds any voter at any election by deceiving and causing him or her to vote for a different person for any office than he or she intended or desired to vote for.

18574. Every person who, after being required by the precinct board at an election, refuses to be sworn or, being sworn, refuses to answer any pertinent questions propounded by the board touching the right of another to vote, is guilty of a misdemeanor.

18575. Every person is guilty of a felony, and on conviction shall be punished by imprisonment in the state prison for two, three or four years, who at any election:

(a) Without first having been appointed and qualified, acts as an election officer.

(b) Not being an election officer, performs or discharges any of the duties of an election officer in regard to the handling, counting, or canvassing of any ballots.

18576. Any person who willfully (a) interferes with the prompt delivery of a completed absent voter ballot application, (b) retains a completed absent voter ballot application, without the voter's authorization, for more than three days excluding weekends and state holidays, or by the deadline for return of absent voters' ballot applications, whichever is earlier, or (c) denies an applicant the right to return his or her own completed absent voter ballot application to the local elections official having jurisdiction over the election, is guilty of a misdemeanor.

18577. Any person having charge of a completed absent voter ballot who willfully interferes or causes interference with its return to the local elections official having jurisdiction over the election is guilty of a misdemeanor.

18578. Any person who applies for, or who votes or attempts to vote, an absent voter's ballot by fraudulently signing the name of a fictitious person, or of a regularly qualified voter, or of a person who is not qualified to vote, is guilty of a felony punishable by imprisonment in the state prison for 16 months or two or three years, or by fine not exceeding one thousand dollars ($1,000) or by both the fine and imprisonment.

CHAPTER 7. INITIATIVE, REFERENDUM, AND RECALL

Article 1. Improper Signature-Gathering Tactics

18600. Every person is guilty of a misdemeanor who:

(a) Circulating, as principal or agent, or having charge or control of the circulation of, or obtaining signatures to, any state or local initiative, referendum or recall petition, intentionally misrepresents or intentionally makes any false statement concerning the contents, purport or effect of the petition to any person who signs, or who desires to sign, or who is requested to sign, or who makes inquiries with reference to it, or to whom it is presented for his or her signature.

(b) Willfully and knowingly circulates, publishes, or exhibits any false statement or misrepresentation concerning the contents, purport or effect of any state or local initiative, referendum, or recall petition for the purpose of obtaining any signature to, or persuading or influencing any person to sign, that petition.

(c) Circulating, as principal or agent, or having charge or control of the circulation of, or obtaining signatures to, any state or local initiative, intentionally makes any false statement in response to any inquiry by any voter as to whether he or she is a paid signature gatherer or a volunteer.

18601. Any person working for the proponent or proponents of an initiative or referendum measure or recall petition who refuses to allow a prospective signer to read the measure or petition is guilty of a misdemeanor.

An arrest or conviction pursuant to this section shall not invalidate or otherwise affect the validity of any signature obtained by the person arrested or convicted.

18602. Any person working for the proponent or proponents of a statewide initiative or referendum measure who covers or otherwise obscures the summary of the measure prepared by the Attorney General from the view of a prospective signer is guilty of a misdemeanor.

18603. Every person who offers or gives money or other valuable consideration to another in exchange for his or her signature on a state, county, municipal, or district initiative petition is guilty of a misdemeanor.

Article 2. False or Ineligible Signatures on Petition

18610. Every person who solicits any circulator to affix to any initiative, referendum, or recall petition any false or forged signature, or to cause or permit a false or forged signature to be affixed, is guilty of a misdemeanor.

18611. Every person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment, who circulates or causes to be circulated any initiative, referendum, or recall petition, knowing it to contain false, forged, or fictitious names.

18612. Every person is guilty of a misdemeanor who knowingly signs his or her own name more than once to any initiative,

referendum, or recall petition, or signs his or her name to that petition knowing himself or herself at the time of signing not to be qualified to sign it.

18613. Every person who subscribes to any initiative, referendum, or recall petition a fictitious name, or who subscribes thereto the name of another, or who causes another to subscribe such a name to that petition, is guilty of a felony and is punishable by imprisonment in the state prison for two, three, or four years.

18614. Every person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment, who files in the office of the elections official or other officer designated by law to receive the filing, any initiative, referendum, or recall petition to which is attached, appended or subscribed any signature which the person filing the petition knows to be false or fraudulent or not the genuine signature of the person whose name it purports to be.

Article 3. Improper Payments to Prevent Petition Circulation and Filing

18620. Every person who seeks, solicits, bargains for, or obtains any money, thing of value, or advantage of or from any person, firm, or corporation for the purpose or represented purpose of fraudulently inducing, persuading, or seeking the proponent or proponents of any initiative or referendum measure or recall petition to (a) abandon the measure or petition, (b) fail, neglect, or refuse to file in the office of the elections official or other officer designated by law, within the time required by law, the initiative or referendum measure or recall petition after securing the number of signatures required to qualify the measure or petition, (c) stop the circulation of the initiative or referendum measure or recall petition, or (d) perform any act that will prevent or aid in preventing the initiative or referendum measure or recall petition from qualifying as an initiative or referendum measure, or the recall petition from resulting in a recall election, is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment.

18621. Any proponent of an initiative or referendum measure or recall petition who seeks, solicits, bargains for, or obtains any money or thing of value of or from any person, firm, or corporation for the purpose of abandoning the same or stopping the circulation of petitions concerning the same, or failing or neglecting or refusing to file the measure or petition in the office of the elections official or other officer designated by law within the time required by law after obtaining the number of signatures required under the law to qualify the measure or petition, or performing any act that will prevent or aid in preventing the initiative, referendum or recall proposed from

qualifying as an initiative or referendum measure, or resulting in a recall election is punishable by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment.

18622. Every person who offers to buy or does buy from a circulator any referendum, initiative, or recall petition on which one or more persons have affixed their signatures is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one year, or by a fine not exceeding one thousand dollars ($1,000), or both. This section is not intended to prohibit compensation of a circulator, for his or her services, by a proponent of the petition or his or her agent.

Article 4. Threats and Theft to Prevent Petition Circulation and Filing

18630. Every person who threatens to commit an assault or battery on a person circulating a referendum, initiative, or recall petition or on a relative of a person circulating a referendum, initiative, or recall petition or to inflict damage on the property of the circulator or the relative, with the intent to dissuade the circulator from circulating the petition or in retribution for the circulation, is guilty of a misdemeanor.

18631. Every person who forcibly or by stealth takes from the possession of a circulator any initiative, referendum, or recall petition on which one or more persons have affixed their signatures is guilty of a misdemeanor.

Article 5. Refusal of Circulators to Turn in Petitions

18640. Any person working for the proponent or proponents of an initiative or referendum measure or recall petition who solicits signatures to qualify the measure or petition and accepts any payment therefor and who fails to surrender the measure or petition to the proponents thereof for filing is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment.

Article 6. Misuse of Signatures on Petition

18650. No one shall knowingly or willfully permit the list of signatures on an initiative, referendum, or recall petition to be used for any purpose other than qualification of the initiative or referendum measure or recall question for the ballot, except as provided in Section 6253.5 of the Government Code. Violation of this section is a misdemeanor.

Article 7. False Affidavits Concerning Petitions

18660. Every person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment, who makes any false affidavit concerning any initiative, referendum, or recall petition or the signatures appended thereto.

18661. Every public official or employee is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment, who knowingly makes any false return, certification or affidavit concerning any initiative, referendum, or recall petition or the signatures appended thereto.

Article 8. Filing Petitions to Defeat an Initiative or Referendum

18670. Every person is guilty of a misdemeanor who, either as principal or agent, files in the office of the Secretary of State, county elections official, or in the office of any other officer designated by law to receive the filing, a petition or any section of a petition relating to the Constitution or the laws of this state, authorized by the Constitution or laws of this state regulating the statewide initiative or referendum, with the intention of thereby defeating that initiative or referendum measure that is embraced in the petition. Nothing in this section applies to any person who, in good faith, files a petition embracing an initiative or referendum measure that conflicts with a similar measure already on file.

18671. Any petition, or any section of a petition, filed by any person other than the proponents of an initiative or referendum measure and with an intention of defeating an expression of the public will is null and void.

Article 9. Misuse of Campaign Funds

18680. Every person who is entrusted with money or things of value for the purpose of promoting or defeating any initiative, referendum, or recall petition or any measure that has qualified for the ballot is a trustee of the money or things of value. If a person wrongfully appropriates the money or things of value to any use or purpose not in the due and lawful execution of the trust, the person shall be punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment. The following expenses are within the due and lawful execution of the trust:

(a) Securing signatures to initiative, referendum, or recall petitions.

(b) Circulating initiative, referendum, or recall petitions.
(c) Holding and conducting public meetings.
(d) Printing and circulating prior to an election:
(1) Specimen ballots.
(2) Handbills.
(3) Cards.
(4) Other papers.
(e) Advertising.
(f) Postage.
(g) Expressage.
(h) Telegraphing.
(i) Telephoning.
(j) All salaries and expenses of:
(1) Campaign managers.
(2) Lecturers.
(3) Solicitors.
(4) Agents.
(5) All persons employed in transacting business at headquarters or branch offices, if the business transacted is related to promoting or defeating an initiative, referendum, or recall petition or any measure which has qualified for the ballot.
(k) Maintaining headquarters and branch offices.
(*l*) Renting of rooms for the transaction of the business of an association.
(m) Attorney's fees and other costs in connection with litigation where the litigation arises directly out of any of the following:
(1) Activities related to promoting or defeating an initiative, referendum, or recall petition or any measure that has qualified for the ballot.
(2) The enactment, by the initiative process, of any ordinance, charter amendment, statute, or constitutional amendment.
(3) An election contest or recount.
(4) A violation of state or local campaign, disclosure, or election laws.
The amendment of this section by adding subdivision (m) thereto, made at the 1991–92 Regular Session of the Legislature, does not constitute a change in, but is declaratory of, the existing law.
Expenses for food, clothing, shelter and other personal needs of the trustee are not within the due and lawful execution of the trust. However, expenses for travel and necessary accommodations for the trustee are within the due and lawful execution of the trust, if the travel and accommodations are related to promoting or defeating an initiative, referendum, or recall petition or any measure that has qualified for the ballot.

CHAPTER 8. OBLIGATIONS OF PRECINCT BOARD

18700. Any voter who has filed an application for the position of, and been appointed as a precinct board member and who, without

being excused by the county elections official, knowingly fails to act as a precinct board member, is guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars ($100).

DIVISION 19. APPROVAL OF VOTING SYSTEMS

CHAPTER 1. GENERAL PROVISIONS

19001. This division shall be liberally construed so that the real will of the electors will not be defeated by any informality or failure to comply with all of the provisions of the law.

19002. Any provision of this division, insofar as it is inconsistent with any other provision of this code relating to the same subject matter, shall be controlling as to any election or precinct for which the provisions of this division are adopted.

19003. Notwithstanding any other provision of the law to the contrary, including any city or county ordinance, unless that other provision of the law is deemed consistent with this division, this division shall govern voting systems.

19004. Voting equipment may be loaned or rented for any purposes with the consent of the board of supervisors, if payment for the expenses incident to the use of the machine is made.

19005. In the case of electrical failure or other emergency, the official conducting the election may direct that ballots may be marked by pencil or ink. In that event, the elections official may duplicate the voted ballot cards as provided in Section 15270 and count the duplicate ballots by automatic tabulating device, or may count the voted ballots pursuant to Article 1 (commencing with Section 15050) of Chapter 2 of Division 15.

CHAPTER 2. SECRETARY OF STATE REQUIREMENTS

19100. The Secretary of State shall study and adopt regulations governing the use of voting machines, voting devices, and vote tabulating devices.

19101. The Chairperson of the Senate Standing Committee on Elections and Reapportionment and the Chairperson of the Assembly Standing Committee on Elections, Reapportionment and Constitutional Amendments shall meet with the Secretary of State and assist the Secretary of State to the extent that the participation is not incompatible with their positions as Members of the Legislature. For the purposes of this division, the chairpersons of the committees named shall constitute a joint interim legislative committee on the subject of this chapter and Chapter 3 (commencing with Section 19200) and shall have the powers and duties imposed upon those committees by the Joint Rules of the Senate and Assembly.

19102. The Secretary of State may investigate any alleged violation of his or her regulations with power to subpoena all

necessary persons and records.

19103. (a) An exact copy of the source code for all ballot tally software programs shall be placed in an approved escrow facility prior to its use.

(b) The Secretary of State shall adopt regulations relating to the following:

(1) The definition of source codes for ballot tally software.

(2) Specifications for the escrow facility, including security and environmental specifications necessary for the preservation of the ballot tally software program source codes.

(3) Procedures for submitting ballot tally software program source codes.

(4) Criteria for access to ballot tally software program source codes.

(c) The Secretary of State may seek injunctive relief requiring the elections officials to comply with this section and related regulations. Venue for a proceeding under this section shall be exclusively in Sacramento County.

(d) This section applies to all elections.

CHAPTER 3. APPROVAL OF VOTING SYSTEMS

Article 1. Procedures for Approval of Voting Systems

19200. The Secretary of State shall not approve any voting system, or part of a voting system, unless it fulfills the requirements of this code and the regulations of the Secretary of State.

19201. No voting system, in whole or in part, shall be used unless it has received the approval of the Secretary of State, prior to any election at which it is to be first used.

19202. Any person or corporation owning or being interested in any voting system or part of a voting system may apply to the Secretary of State to examine it and report on its accuracy and efficiency to fulfill its purpose. The Secretary of State shall complete his or her examination without undue delay.

19203. The Secretary of State may make all arrangements for the time and place to examine voting equipment proposed to be sold in this state. He or she shall furnish a complete report of the findings of the examining engineers to the Governor and the Attorney General.

19204. Prior to giving its decision approving or withholding approval of any voting machine, voting device, or vote tabulating device, the Secretary of State shall hold a public hearing to give persons interested an opportunity to express their views for or against the machine or device.

The Secretary of State shall give notice of the hearing in the manner prescribed in Section 6064 of the Government Code in a newspaper of general circulation published in Sacramento County. The Secretary of State shall also transmit written notice of the

hearing, at least 30 days prior to the hearing, to each county elections official, to any person that the Secretary of State believes will be interested in the hearing, and to any person who requests, in writing, notice of the hearing.

The decision of the Secretary of State, either approving or withholding approval of a voting machine, voting device, or vote tabulating device, shall be in writing and shall state the findings of the secretary. The decision shall be open to public inspection.

19205. The Secretary of State shall establish the specifications for and the regulations governing voting machines, voting devices, vote tabulating devices, and any software used for each, including the programs and procedures for vote tabulating and testing. The criteria for establishing the specifications and regulations shall include, but not be limited to, the following:

(a) The machine or device and its software shall be suitable for the purpose for which it is intended.

(b) The system shall preserve the secrecy of the ballot.

(c) The system shall be safe from fraud or manipulation.

19206. For the purpose of assistance in examining a voting system the Secretary of State may employ not more than three expert electronic technicians at a cost to be set by the Secretary of State. The compensation of the electronic technicians shall be paid by the person or corporation submitting the machine or device.

The Secretary of State may require the person or corporation submitting the machine or device to deposit sufficient funds to guarantee the payment of the examination charges. The Secretary of State may deposit the funds in an appropriate treasury trust account and, within 30 days after his or her report of examination, draw a refund check to the credit of the person or corporation for any amount in excess of costs.

19207. Within 30 days after completing the examination of any voting system, the Secretary of State shall place on file a report stating whether in his or her opinion the kind of voting system examined can safely be used. The report shall also contain a written or printed description and drawings and photographs clearly identifying the machine or device and its mechanical operation.

19208. If the report states that the voting system can be used, it shall be deemed approved by the Secretary of State and machines or devices of its kind may be adopted for use at elections.

19209. Within 10 days after filing the report, the Secretary of State shall send a copy to the board of supervisors of each county.

19210. The governing board may adopt for use at elections any kind of voting system, any combination of voting systems, any combination of a voting system and paper ballots, provided that the use of the voting system or systems involved has been approved by the Secretary of State or specifically authorized by law. The voting system or systems may be used at any or all elections held in any county, city, or any of their political subdivisions for voting, registering, and counting votes cast. When more than one voting

system is used to count ballots, the names of candidates shall, insofar as possible, be placed upon the primary voting system. When more than one voting system or a combination of a voting system and paper ballots is used to count ballots, a single ballot measure or the candidates for a single office may not be split between voting systems or between a voting system and paper ballots.

19211. The governing board, without formally adopting a system that it might lawfully adopt, may provide for its experimental use at an election in one or more precincts. Its use at the election is as valid for all purposes as if it were lawfully adopted.

19212. The governing board may provide for the payment of the cost of the voting system equipment in any manner and by any method as it may deem for the best local interests, and also may for that purpose issue bonds, certificates of indebtedness, or other obligations that shall be a charge on the county or city. The bonds, certificates, or other obligations may be issued with or without interest, payable at any time as the authorities may determine, but shall not be issued or sold at less than par. The governing board may enter into lease agreements or lease-purchase agreements for the use of equipment.

19213. When a voting system or a part of a voting system has been approved by the Secretary of State, it shall not be changed or modified until the Secretary of State has been notified in writing and determined that the change or modification does not impair its accuracy and efficiency sufficient to require a reexamination and reapproval pursuant to this article. The Secretary of State may adopt rules and regulations governing the procedures to be followed in making his or her determination as to whether the change or modification impairs accuracy or efficiency.

Article 2. Inspection of Approved Voting Systems

19220. The elections official of any county or city using voting or vote tabulating equipment shall inspect the machines or devices at least once every two years to determine their accuracy. Any county or city using leased or rented equipment shall determine if the equipment has been inspected for accuracy within the last two years before using it for any election. The inspection shall be made in accordance with regulations adopted and promulgated by the Secretary of State. The elections official shall certify the results of the inspection to the Secretary of State.

19221. If the Secretary of State has reason to believe that a local inspection of equipment is not adequate, he or she may cause the equipment to be reexamined, at any time prior to six months before a statewide election, to insure that they tabulate votes accurately.

For the purpose of reexamining voting equipment the Secretary of State may employ not more than three expert technicians at a cost to be determined by the Secretary of State. The compensation of the technicians shall be paid by the county using the equipment

examined.

The Secretary of State may make all arrangements for the time and place to examine the voting equipment, and shall furnish a complete report of the findings of the examining engineers to the Governor, to the Attorney General, to each county elections official, to the chairmen of the elections committees of the Assembly and Senate, and to the manufacturer of the equipment.

19222. The Secretary of State shall review voting systems periodically to determine if they are defective, obsolete, or otherwise unacceptable. The Secretary of State has the right to withdraw his or her approval previously granted under this chapter of any voting system or part of a voting system should it be defective or prove unacceptable after such review. Six months' notice shall be given before withdrawing approval unless the Secretary of State for good cause shown makes a determination that a shorter notice period is necessary. Any withdrawal by the Secretary of State of his or her previous approval of a voting system or part of a voting system shall not be effective as to any election conducted within six months of that withdrawal.

CHAPTER 4. ELECTIONS USING VOTING MACHINES

Article 1. General Provisions

19300. A voting machine shall, except at a direct primary election, permit the voter to vote for all the candidates of one party or in part for the candidates of one party and in part for the candidates of one or more other parties.

19301. A voting machine shall provide in the general election for grouping under the name of the office to be voted on, all the candidates for the office with the designation of the parties, if any, by which they were respectively nominated.

The designation may be by usual or reasonable abbreviation of party names.

19302. The labels on voting machines and the way in which candidates' names are grouped shall conform as nearly as possible to the form of ballot provided for in elections where voting machines are not used.

19303. If the voting machine is so constructed that a voter can cast a vote in part for presidential electors of one party and in part for those of one or more other parties or those not nominated by any party, it may also be provided with: (a) one device for each party for voting for all the presidential electors of that party by one operation, (b) a ballot label therefor containing only the words "presidential electors" preceded by the name of the party and followed by the names of its candidates for the offices of President and Vice President, and (c) a registering device therefor which shall register the vote cast for the electors when thus voted collectively.

If a voting machine is so constructed that a voter can cast a vote

in part for delegates to a national party convention of one party and in part for those of one or more other parties or those not nominated by any party, it may be provided with one device for each party for voting by one operation for each group of candidates to national conventions that may be voted for as a group according to the law governing presidential primaries.

No straight party voting device shall be used except for delegates to a national convention or for presidential electors.

19304. A write-in ballot shall be cast in its appropriate place on the machine, or it shall be void and not counted.

Article 2. Pre-election Procedures

19320. Before preparing a voting machine for any general election, the elections official shall mail written notice to the chairperson of the county central committee of at least two of the principal political parties, stating the time and place where machines will be prepared. At the specified time one representative of each of the political parties shall be afforded an opportunity to see that the machines are in proper condition for use in the election.

The party representatives shall be sworn to perform faithfully their duties but shall not interfere with the officials or assume any of their duties. When a machine has been so examined by the representatives, it shall be sealed with a numbered metal seal. The representatives shall certify to the number of the machines, whether all of the counters are set at zero (000), and the number registered on the protective counter and on the seal.

19321. The elections official shall affix ballot labels to the machines to correspond with the sample ballot for the election. He or she shall employ competent persons to assist him or her in affixing the labels and in putting the machines in order. Each machine shall be tested to ascertain whether it is operating properly.

19322. When a voting machine has been properly prepared for an election, it shall be locked against voting and sealed. After that initial preparation, a member of the precinct board or some duly authorized person, other than the one preparing the machines, shall inspect each machine and submit a written report. The report shall note the following:

(1) Whether all of the registering counters are set at zero (000), (2) whether the machine is arranged in all respects in good order for the election, (3) whether the machine is locked, (4) the number on the protective counter, (5) the number on the seal. The keys shall be delivered to the election board together with a copy of the written report, made on the proper blanks, stating that the machine is in every way properly prepared for the election.

19323. The elections official shall deliver to the polling place the supplies necessary to conduct the election, including two sample ballots, one envelope containing the seal for sealing the machine after the polls are closed, one envelope for the return of the keys, and

as many copies of the statement of votes cast as are necessary.

Article 3. Precincts and Board Members

19340. Any member of a precinct board who has not previously attended a training class in the use of the voting machines and the duties of a board member shall be required to do so, unless appointed to fill an emergency vacancy.

19341. The precinct board shall consist of one inspector and two judges who shall be appointed and compensated pursuant to the general election laws. One additional inspector or judge shall be appointed for each additional voting machine used in the polling place.

Article 4. Procedures at the Polls

19360. Before unsealing the envelope containing the keys and opening the doors concealing the counters the precinct board shall determine that the number on the seal on the machine and the number registered on the protective counter correspond to the numbers on the envelope.

Each member of the precinct board shall then carefully examine the counters to see that each registers zero (000). If the machine is provided with embossing, printing, or photography devices that record the readings of the counters the board shall, instead of opening the counter compartment, cause a "before election proofsheet" to be produced and determined by it that all counters register zero (000).

If any discrepancy is found in the numbers registered on the counters or the "before election proofsheet" the precinct board shall make, sign, and post a written statement attesting to this fact. In filling out the statement of return of votes cast, the precinct board shall subtract any number shown on the counter from the number shown on the counter at the close of the polls.

19361. The keys to the voting machines shall be delivered to the precinct board no later than 12 hours before the opening of the polls. They shall be in an envelope upon which is written the designation and location of the election precinct, the number of the voting machine, the number on the seal, and the number registered on the protective counter. The precinct board member receiving the key shall sign a receipt.

The envelope shall not be opened until at least two members of the precinct board are present to determine that the envelope has not been opened.

At the close of the polls the keys shall be placed in the envelope supplied by the official and the number of the machine, the number of the seal, the number registered on the protective counter, shall be written on the envelope.

19362. The exterior of the voting machine and every part of the

polling place shall be in plain view of the election precinct board and the poll watchers. The ballot labels shall be clearly visible when the machine is not in use and shall be inspected by a member of the precinct board after each voter has left the booth. Each machine shall be at least four feet from the poll clerk's table.

19363. Voters shall not remain in or occupy the booths or compartments longer than is necessary to mark their ballots, which shall not exceed five minutes. However, where no other voter would be inconvenienced, a longer period shall be allowed.

Article 5. Closing the Polls

19370. As soon as the polls are closed, the precinct board, in the presence of the watchers and all others lawfully present, shall immediately lock the voting machine against voting and open the counting compartments, giving full view of all counter numbers. A board member shall in the order of the offices as their titles are arranged on the machine, read and distinctly announce the name or designating number and letter on each counter for each candidate's name and the result as shown by the counter numbers. He or she shall also in the same manner announce the vote on each measure.

If the machine is provided with a recording device, in lieu of opening the counter compartment the precinct board shall proceed to operate the mechanism to produce the statement of return of votes cast record in a minimum of three copies, remove the irregular ballot, if any, record on the statement of return of votes cast record. The irregular ballot shall be attached to the statement of result record of votes cast for the machine and become a part thereof. One copy of the statement of return of votes cast for each machine shall be posted upon the outside wall of the precinct for all to see. The statement of return of votes cast for each machine for the precinct shall constitute the precinct statement of result of votes cast.

19371. Before adjourning, the precinct board shall seal the operating lever with the seal provided and lock the machine so that the voting and counting mechanism may not be operated.

It shall remain locked and sealed against operation until the time for filing a contest of election has expired, which shall not exceed a period of 30 days following the declaration of the result of the election by the body canvassing the returns.

Article 6. Counting Procedures

19380. During the reading of the result of votes cast, any candidate or watcher who may desire to be present shall be admitted to the polling place. The proclamation of the result of the votes cast shall be distinctly announced by the precinct board who shall read the name of each candidate, or the designating number and letter of his or her counter, and the vote registered on the counter. The board shall also read the vote cast for and against each measure submitted.

The board shall not count votes cast for write-in candidates, but shall have these counted by the elections official. During the proclamation ample opportunity shall be given to any person lawfully present to compare the result so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the precinct board, after which the doors of the voting machine shall be closed and locked.

If the machine is provided with a recording device, the alternate procedures in Section 19370 may be used.

19381. In each election district where voting machines are used, statements of the results of the vote cast shall be printed to conform with the type of voting machine used.

The designating number and letter on the counter for each candidate shall be printed next to the candidate's name on the statements of result of the vote cast. Two such statements shall be used in each election district.

19382. The statement of the result of votes cast, which shall be certified by the precinct board, shall contain:

(a) The total number of votes cast.

(b) The number of votes cast for each candidate and measure as shown on the counter.

(c) The number of votes for persons not nominated.

(d) Printed directions to the precinct board for their guidance before the polls are opened and when the polls are closed.

(e) A certificate which shall be signed by the election officers before the polls are opened, showing:

(1) The delivery of the keys in a sealed envelope.

(2) The number on the seal.

(3) The number registered on the protective counter.

(4) Whether all of the counters are set at zero (000).

(5) Whether the public counter is set at zero (000).

(6) Whether the ballot labels are properly placed in the machine.

(f) A certificate that shall be filled out after the polls have been closed, showing:

(1) That the machine has been locked against voting and sealed.

(2) The number of voters as shown on the public counter.

(3) The number on the seal.

(4) The number registered on the protective counter.

(5) That the voting machine is closed and locked.

19383. A member of the precinct board shall enter the vote, as registered, on the statements of result of votes cast, in the same order on the space that has the same name or designating number and letter, after which another member shall verify the figures by calling them off in the same manner from the counters of the machine. The counter compartment of the voting machine shall remain open until the official returns and all other reports have been fully completed and verified by the precinct board.

If the machine is provided with a recording device, the alternate procedures in Section 19370 may be used.

19384. The precinct board shall, before it adjourns, post conspicuously on the outside of the polling place a copy of the result of the votes cast at the polling place. The copy of the result shall be signed by the members of the precinct board.

If the machine is provided with a recording device, the statement of result of votes cast produced by operating its mechanism may be considered the "result of the votes cast" at the polling place.

19385. The precinct board shall immediately transmit unsealed to the elections official a copy of the result of the votes cast at the polling place, the copy shall be signed by the members of the precinct board, and shall be open to public inspection.

19386. Before proceeding to canvass the returns of an election at which voting machines have been used to register the votes cast, the board authorized to canvass returns shall open the counter compartment and compare the records of votes cast for the several candidates voted for and for and against the several measures voted upon shown on each machine with those recorded on the statement of results of votes cast prepared from that machine by the precinct board. Any errors found on the statement shall be corrected by crossing out the recorded incorrect number, and recording the correct number nearby.

If the machine is provided with a recording device, the board shall inspect the statement of return of votes cast record. However, for good and sufficient cause the board shall unseal the machines and take off and record the records of votes cast for the several candidates and for and against the several measures voted upon. Each voting machine shall immediately be resealed.

DIVISION 20. ELECTION CAMPAIGNS

CHAPTER 1. ENDORSEMENTS OF CANDIDATES

20000. This chapter shall be known and may be cited as the Truth in Endorsements Law.

20001. The Legislature hereby finds the following to be true:

(1) The major political parties have become an integral part of the American governmental system requiring regulation as to their structure, governing bodies, and functions by state government in the public interest.

(2) The Legislature has found it necessary and appropriate in the regulation of political parties to create and provide for the convening of state conventions, state central committees, and county central committees for parties qualified by law to participate in the direct primary election, by statute.

(3) Over the several years preceding the adoption of this section organizations of electors using as a part of their names the name of a political party qualified to participate in the direct primary election have endorsed candidates for nomination of that party for partisan office in the direct primary election and have publicized and

promulgated the endorsements in a manner that has resulted in considerable public doubt and confusion as to whether the endorsements are those of a private group of citizens or of an official governing body of a political party.

(4) The voting public is entitled to protection by law from deception in political campaigns in the same manner and for the same reasons that it is entitled to protection from deception by advertisers of commercial products.

20002. (Repealed by Stats. 1994, Ch. 1189.)

[ORIGINAL SECTION]

20002. The state convention, state central committee, and the county central committee in each county are the official governing bodies of a party qualified to participate in the direct primary election. The state convention, state central committee, and the county central committee in each county shall not endorse, support, or oppose any candidate for nomination by that party for partisan office in the direct primary election.

20003. (Repealed by Stats. 1994, Ch. 1189.)

[ORIGINAL SECTION]

20003. Every advertisement, bill, placard, pamphlet or other printed or duplicated matter having reference to any candidate for nomination for partisan office in the direct primary election that contains a statement or words to the effect that the candidate has been endorsed or is being supported by a political party, political party organization, or organization using as a part of its name the name of a political party or derivative thereof, shall bear on each surface, page, or fold thereof on which the statement or words appear, or on the front and back surface thereof, in type or lettering at least half as large as the type or lettering of the statement or words or in 10-point roman type, whichever is larger, in a printed or drawn box and set apart from any other printed matter, the following statement:

NOTICE TO VOTERS
(Required by law)

The endorsement hereon is by an unofficial political group. Official organizations of the (name) Party are prohibited by law from endorsing candidates in primary elections.

Nothing in this section shall be construed to apply to any news item, comment, or article, for which no consideration, direct or indirect, is paid by or on behalf of any candidate or committee, and that is published in any regularly published newspaper or magazine which in the ordinary course of business publishes political news items, comments, or articles.

20004. (Repealed by Stats. 1994, Ch. 1189.)

[ORIGINAL SECTION]

20004. Notwithstanding Section 20003, in the case of any postcard published and circulated by or in behalf of any committee or organization using as a part of its name the name of qualified political party or derivative thereof, which postcard is not folded and consists of only two surfaces, on one or both of which surfaces appear a statement or words as described in Section 20003 with reference to a candidate or group of candidates in the direct primary election, Section 20003 shall be satisfied if there is printed on both surfaces thereof the words "published by", followed by the name of the committee or organization printed in not less than 10-point boldface type, followed by the words, "an unofficial political group" printed in not less than 10-point boldface type, provided that this section shall not apply to any matter that bears the word "official" followed by the name of the party or derivative thereof, or the words "officially endorsed", or to any matter that violates Section 20002 or 18320.

20005. (Repealed by Stats. 1994, Ch. 1189.)

[ORIGINAL SECTION]

20005. Section 20003 shall apply to any paid political advertisement intended for broadcast or telecast by radio or television, except that the "Notice to Voters" required by Section 20003 shall be read in full instead of printed.

20006. The superior court, in any case brought before it by any registered voter, may issue a temporary or permanent restraining order or injunction against the publication, printing, circulation, posting, broadcasting, or telecasting of any matter in violation of this chapter, and all cases of this nature shall be in a preferred position for purposes of trial and appeal, so as to assure the speedy disposition thereof.

20007. No candidate or committee in his or her behalf shall represent in connection with an election campaign, either orally or in campaign material, that the candidate has the support of a committee or organization that includes as part of its name the name or any variation upon the name of a qualified political party with which the candidate is not affiliated, together with the words "county committee," "central committee," "county," or any other term that might tend to mislead the voters into believing that the candidate has the support of that party's county central committee or state central committee, when that is not the case.

This section shall not be construed to prevent a candidate or committee from representing that the candidate has the support of a committee or group of voters affiliated with another political party, which committee or group is identified by the name of that party, where the name of the committee or group also includes the name of the candidate.

Any member of a county central committee or state central committee may commence an action in the superior court to enjoin misrepresentation by a candidate or committee in his or her behalf, in the manner prohibited by this section, to the effect that the candidate has the support of the state or county central committee involved.

20008. Any paid political advertisement that refers to an election or to any candidate for state or local elective office and that is contained in or distributed with a newspaper, shall bear on each surface or page thereof, in type or lettering at least half as large as the type or lettering of the advertisement or in 10-point roman type, whichever is larger, the words "Paid Political Advertisement." The words shall be set apart from any other printed matter.

As used in this section "paid political advertisement" shall mean and shall be limited to, published statements paid for by advertisers for purposes of supporting or defeating any person who has filed for an elective state or local office.

20009. (a) Every simulated ballot or simulated sample ballot shall bear on each surface or page thereof, in type or lettering at least half as large as the type or lettering of the statement or words or in 10-point roman type, whichever is larger, in a printed or drawn box and set apart from any other printed matter, the following statement:

"NOTICE TO VOTERS
"(Required by Law)

"This is not an official ballot or an official sample ballot prepared by the county elections official or the Secretary of State.

"This is an unofficial, marked ballot prepared by _____ (insert name and address of the person or organization responsible for preparation thereof)."

Nothing in this section shall be construed to require this notice in any editorial or other statement appearing in a regularly published newspaper or magazine other than a paid political advertisement.

(b) No simulated ballot or simulated sample ballot referred to in subdivision (a) shall bear any official seal or the insignia of any public entity, nor shall that seal or insignia appear upon the envelope in which it is mailed or otherwise delivered.

(c) The superior court, in any case brought before it by any registered voter, may issue a temporary or permanent restraining order or injunction against the publication, printing, circulation, posting, or distribution of any matter in violation of this section, and all cases of this nature shall be in a preferred position for purposes of trial and appeal, so as to assure the speedy disposition thereof.

CHAPTER 2. POLITICAL CORPORATIONS

Article 1. Incorporation

20100. If the name of a corporation includes all or part of the name of any person, together with either (a) all or part of the title of any elective office, (b) the date (by year or otherwise) of the election for any office, or (c) any other words or figures indicating the candidacy or nomination of that person for elective office, the Secretary of State shall not accept its articles of incorporation for filing unless there is first filed with him or her a statement signed and acknowledged by that person consenting to the use of his or her name.

CHAPTER 3. CAMPAIGN FUNDS

Article 1. Solicitation

20200. As used in this article "person" includes a firm, association, corporation, campaign committee or organization.

20201. It is unlawful for any person that includes in any part of its name the name of any political party that was qualified to participate in the last preceding primary election, to directly or indirectly solicit funds for any purpose whatsoever upon the representation either express or implied that the funds are being solicited for the use of that political party unless that person shall have previously obtained the written consent of one of the following: a member of the national committee from California or the majority of the members of the national committee if there are more than two national committee members from California, chairman of the state central committee, executive committee of the state central committee, or executive committee of the county central committee of the party whose name is being used in the county in which the solicitation is to be made. If the county central committee of the party in that county does not have an executive committee, the written consent of the chairman and secretary of that county central committee is sufficient.

All persons soliciting funds in accordance with this section shall be furnished with adequate credentials bearing the name of the solicitor and a copy of the written consent that bears the signature of the person authorizing the solicitation.

20202. It is unlawful for any person who solicits funds for the purpose of supporting or promoting any candidates or committees to include in any part of its name the name of that candidate or committee unless that person shall have previously obtained the authorization of the candidate or committee or the candidate's or committee's designated agent to use the candidate's or committee's name in the name of that person.

Authorization by a candidate or committee shall not be construed as rendering the person soliciting funds a controlled committee as defined by Section 82016 of the Government Code.

20203. Any person who solicits or receives contributions on behalf of any candidate or committee for the purported and exclusive use of that committee or the candidate's election campaign and who is not authorized by the candidate or committee or the candidate's or committee's designated agent to do so, shall include a notice in any fundraising communication, whether through any broadcasting station, newspaper, magazine, printed literature, direct mailing, or any other type of general public advertising, or through telephone or individual oral fundraising appeal, clearly and conspicuously stating that the person is not authorized by the candidate or committee and that the candidate or committee is not responsible for the actions of that person.

CHAPTER 4. LIMITATIONS ON THE USE OF SURPLUS CAMPAIGN FUNDS

20300. Upon leaving any elective office, or at the end of the postelection reporting period following the defeat of a candidate for elective office, whichever occurs last, surplus campaign funds raised prior to January 1, 1989, under the control of the former candidate or officeholder or his or her controlled committee shall be used or held only for the following purposes:

(a) (1) The repayment of personal or committee loans or other obligations if there is a reasonable relationship to a political, legislative, or governmental activity.

(2) For purposes of this subdivision, the payment for, or the reimbursement to the state of, the costs of installing and monitoring an electronic security system in the home or office, or both, of a candidate or elected officer who has received threats to his or her physical safety shall be deemed to have a reasonable relationship to a political, legislative, or governmental activity, provided that the threats arise from his or her activities, duties, or status as a candidate or elected officer and that the threats have been reported to and verified by an appropriate law enforcement agency. Verification shall be determined solely by the law enforcement agency to which the threat was reported. The candidate or elected officer shall report any expenditure of campaign funds made pursuant to this section to the commission. The report to the commission shall include the date that the candidate or elected officer informed the law enforcement agency of the threat, the name and phone number of the law enforcement agency, and a brief description of the threat. No more than five thousand dollars ($5,000) in surplus campaign funds may be used, cumulatively, by a candidate or elected officer pursuant to this subdivision. Payments made pursuant to this subdivision shall be made during the two years immediately following the date upon which the campaign funds became surplus campaign funds. The candidate or elected officer shall reimburse the surplus campaign fund account for the fair market value of the security system no later than two years immediately following the date upon which the campaign funds become surplus campaign funds, upon sale of the property on which the system is installed, or prior to the closing of the surplus campaign fund account, whichever comes first. The electronic security system shall be the property of the campaign committee of the candidate or elected officer.

(b) The payment of the outstanding campaign expenses.

(c) Contributions to any candidate, committee, or political party, except where otherwise prohibited by law.

(d) The pro rata repayment of contributors.

(e) Donations to any religious, scientific, educational, social welfare, civic, or fraternal organization no part of the net earnings of which inures to the benefit of any private shareholder or individual or to any charitable or nonprofit organization which is

exempt from taxation under subsection (c) of Section 501 of the Internal Revenue Code or Section 17214 or Sections 23701a to 23701j, inclusive, or Section 23701*l*, 23701n, 23701p, or 23701s of the Revenue and Taxation Code.

(f) Except where otherwise prohibited by law, held in a segregated fund for future political campaigns, not to be expended except for political activity reasonably related to preparing for future candidacy for elective office.

20301. This chapter shall not be construed to impose any reporting obligations in addition to those obligations imposed by other provisions of law, nor shall this chapter apply to the expenditure of campaign funds in conjunction with any pending litigation.

CHAPTER 5. FAIR CAMPAIGN PRACTICES

Article 1. General Intent

20400. The Legislature declares that the purpose of this chapter is to encourage every candidate for public office in this state to subscribe to the Code of Fair Campaign Practices.

It is the ultimate intent of the Legislature that every candidate for public office in this state who subscribes to the Code of Fair Campaign Practices will follow the basic principles of decency, honesty, and fair play in order that, after vigorously contested, but fairly conducted campaigns, the citizens of this state may exercise their constitutional right to vote, free from dishonest and unethical practices which tend to prevent the full and free expression of the will of the voters.

The purpose in creating the Code of Fair Campaign Practices is to give voters guidelines in determining fair play and to encourage candidates to discuss issues instead of untruths or distortions.

Article 2. Definitions

20420. As used in this chapter, "Code" means the Code of Fair Campaign Practices.

Article 3. Code of Fair Campaign Practices

20440. At the time an individual is issued his or her declaration of candidacy, nomination papers, or any other paper evidencing an intention to be a candidate for public office, the elections official, shall give the individual a blank form of the code and a copy of this chapter. The elections official shall inform each candidate for public office that subscription to the code is voluntary.

In the case of a committee making an independent expenditure as defined in Section 82031 of the Government Code, the Secretary of State shall provide a blank form and a copy of this chapter to the

individual filing, in accordance with Title 9 (commencing with Section 81000) of the Government Code, an initial campaign statement on behalf of the committee.

The text of the code shall read, as follows:

"CODE OF FAIR CAMPAIGN PRACTICES

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of California has a moral obligation to observe and uphold, in order that, after vigorously contested, but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammeled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

(1) I SHALL CONDUCT my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponents or political parties which merit such criticism.

(2) I SHALL NOT USE OR PERMIT the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life.

(3) I SHALL NOT USE OR PERMIT any appeal to negative prejudice based on race, sex, religion, national origin, physical health status, or age.

(4) I SHALL NOT USE OR PERMIT any dishonest or unethical practice which tends to corrupt or undermine our American system of free elections, or which hampers or prevents the full and free expression of the will of the voters including acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote, or voting.

(5) I SHALL NOT coerce election help or campaign contributions for myself or for any other candidate from my employees.

(6) I SHALL IMMEDIATELY AND PUBLICLY REPUDIATE support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics which I condemn. I shall accept responsibility to take firm action against any subordinate who violates any provision of this code or the laws governing elections.

(7) I SHALL DEFEND AND UPHOLD the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of California or treasurer or chairperson of a committee making any independent expenditures, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices."

Date Signature

20441. The Secretary of State shall print, or cause to be printed, blank forms of the code. The Secretary of State shall supply the forms to the elections officials in quantities and at times requested by the elections officials.

20442. The elections official shall accept, at all times prior to the election, all completed forms that are properly subscribed to by a candidate for public office and shall retain them for public inspection until 30 days after the election.

20443. Every code subscribed to by a candidate for public office pursuant to this chapter is a public record open for public inspection.

20444. In no event shall a candidate for public office be required to subscribe to or endorse the code.

CHAPTER 6. LIBEL AND SLANDER

20500. The provisions of Part 2 (commencing with Section 43) of Division 1 of the Civil Code, relating to libel and slander, are fully applicable to any campaign advertising or communication.

20501. (a) A candidate or state measure proponent is liable for any slander or libel committed by a committee that is controlled by that candidate or state measure proponent as defined by Section 82016 of the Government Code if the candidate or state measure proponent willfully and knowingly directs or permits the libel or slander.

(b) A person who is a sponsor of a sponsored committee, as defined by Section 82048.7 of the Government Code, is liable for any slander or libel committed by the sponsored committee if the sponsor willfully and knowingly directs or permits the libel or slander.

20502. (a) In any action for libel or slander brought by a candidate, the willingness or unwillingness of the defendant to retract or correct a communication made in the course of a campaign, and his or her action in doing so, shall be admissible in evidence in the exemplary damages phase of a bifurcated trial.

(b) The remedy provided by this section is in addition to any other remedy provided by law.

DIVISION 21. STATE AND LOCAL REAPPORTIONMENT

CHAPTER 1. GENERAL PROVISIONS

21000. The county elections official in each county shall compile and make available to the Legislature or any appropriate committee of the Legislature any information and statistics that may be necessary for use in connection with the reapportionment of

legislative districts, including, but not limited to, precinct maps indicating the boundaries of municipalities, school districts, judicial districts, Assembly districts, senatorial districts and congressional districts, and lists showing the election returns for each precinct in the county at the last four statewide elections held prior to reapportionment. If the county elections official stores the information and statistics in data processing files, he or she shall make the files available, along with whatever documentation shall be necessary in order to allow the use of the files by the appropriate committee of the Legislature and shall retain these files for the four statewide elections held prior to reapportionment. The files shall be retained until reapportionment has been completed.

Each precinct shall be identified according to the census tract or enumeration district in which it is located. In the case of any precinct that is divided among two or more census tracts or enumeration districts, the county elections official shall include an estimate of the proportion of the precinct's registered voters in each census tract or enumeration district. If the United States Bureau of the Census divides or alters any census tract or enumeration district between the time of an election and the census upon which the reapportionment is based, the county elections official shall provide whatever corrections or additional information may be necessary to reflect those changes.

21001. (a) The Secretary of State shall prepare detailed maps showing the boundaries of any districts established by this division on or after January 1, 1991. These maps shall be prepared no later than 90 days following the enactment of any redistricting plan pursuant to this division, and shall illustrate the boundary lines of every district described in the redistricting plan.

(b) The Secretary of State shall provide each Member of the Senate, Assembly, and the State Board of Equalization, and each Member of Congress from California, with one copy of a map or maps of his or her district. One copy of the entire set of maps for the Assembly shall be provided to the Assembly Committee on Rules, one copy of the entire set of maps for the Senate shall be provided to the Senate Committee on Rules, and one copy of the entire set of maps for the State Board of Equalization shall be provided to the State Board of Equalization.

(c) The Secretary of State shall also make copies of the maps available for public inspection. The Secretary of State shall also provide copies of the maps to the county elections officials for use in their administrative functions involved in the conduct of elections.

(d) There shall be no charge for the maps provided pursuant to this section.

21002. Each house of the Legislature shall be a proper party to, and, if not originally named as a party, shall have the right to intervene in, any action involving the validity or application of any statute that provides for changes in the boundaries of any legislative districts of members of that particular house.

CHAPTER 6. SUPERVISORIAL DISTRICTS

21500. Following each decennial federal census, and using that census as a basis, the board shall adjust the boundaries of any or all of the supervisorial districts of the county so that the districts shall be as nearly equal in population as may be and shall comply with the applicable provisions of Section 1973 of Title 42 of the United States Code, as amended. In establishing the boundaries of the districts the board may give consideration to the following factors: (a) topography, (b) geography, (c) cohesiveness, contiguity, integrity, and compactness of territory, and (d) community of interests of the districts.

21501. The boundaries of the supervisorial districts shall be adjusted by the board before the first day of November of the year following the year in which each decennial federal census is taken. If the board fails to adjust the boundaries before the first day of November following the year in which the federal census is taken, a supervisorial redistricting commission shall do so before the 31st day of December of the same year. The adjustment of the district boundaries shall be immediately effective the same as if the act of the supervisorial redistricting commission were an ordinance of the board, subject, however, to the same provisions of referendum as apply to ordinances of the board.

21502. The supervisorial redistricting commission shall be composed of the district attorney, who shall be chairman, the county assessor, and the county elections official if he or she is elected by the qualified electors of the county, or, if not, the county superintendent of schools if he or she is elected by the qualified electors of the county, or, if not, the sheriff.

21503. At any time between the decennial adjustments of district boundaries, the board may cause a census of the county to be taken as provided in Section 26203 of the Government Code, and may adjust the boundaries of the supervisorial districts on the basis of that census, or on the basis of population estimates prepared by the State Department of Finance or the county planning department or planning commission, pursuant to Section 21500.

21504. Any person claiming that the estimates of population used in the redistricting pursuant to Section 21503 do not reflect the current population within the district boundaries more accurately than the most recent census data, may commence an action in the superior court in declaratory relief to determine that fact. The action shall be brought within 30 days after the adoption of the redistricting ordinance.

21505. The board may appoint a committee composed of residents of the county to study the matter of changing the boundaries of the supervisorial districts. The committee shall make its report to the board of its findings on the need for change of boundaries, and the recommended changes, within six months after the final population figures determined in each federal decennial

census have been released, but in any event not later than August 1st of the year following the year in which the census is taken. Recommendations of the committee are advisory only.

21506. The term of office of any supervisor who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which he or she was elected.

At the first election for county supervisors in each county following adjustment of the boundaries of supervisorial districts, a supervisor shall be elected for each district under the readjusted district plan that has the same district number as a district whose incumbent's term is due to expire.

A change in the boundaries of a supervisorial district shall not be made within 45 days before the first day for circulating nomination papers for an election of supervisors in the county or between the direct primary election and the general election.

CHAPTER 7. CITY ELECTIONS

Article 1. General Law Cities

21600. This article applies only to general law cities electing members of the legislative body by districts or from districts, as defined in Section 34871 of the Government Code.

21601. Following each decennial federal census, and using that census as a basis, the council shall, by ordinance or resolution, adjust the boundaries of any or all of the council districts of the city so that the districts shall be as nearly equal in population as may be and shall comply with the applicable provisions of Section 1973 of Title 42 of the United States Code, as amended. In establishing the boundaries of the districts the council may give consideration to the following factors: (a) topography, (b) geography, (c) cohesiveness, contiguity, integrity, and compactness of territory, and (d) community of interests of the districts.

21602. The boundaries of the council districts shall be adjusted by the council before the first day of November of the year following the year in which each decennial federal census is taken.

Notwithstanding Article 2 (commencing with Section 34870) of Chapter 7 of Part 1 of Division 2 of Title 4 of the Government Code, if the council fails to adjust the boundaries prior to the 90th day before the final date for registration of electors for an election of council members in the city, each council member to be elected at that election and at any succeeding election shall have the qualifications required by Section 34883 of the Government Code, but shall be elected at large. Council members shall continue to be so elected until the council adjusts the boundaries of the districts.

21603. If at any time between each decennial federal census, a city annexes territory or consolidates with another city, the legislative body of the city annexing the territory or the legislative

body of the consolidated city, shall reexamine the boundaries of its council districts after the first census is taken or the first current population estimates are obtained, following the annexation or consolidation.

If upon reexamination, the legislative body finds that the population of any council district has varied so that the districts no longer meet the criteria specified in Section 21601, the legislative body shall, within 60 days after the census is taken, or current population estimate received, by ordinance or resolution, adjust the boundaries of any or all of the council districts of the city so that the districts shall be as nearly equal in population as may be.

21604. Any person claiming that the estimates of population used in the redistricting pursuant to Section 21603 do not reflect the current population within the district boundaries more accurately than the most recent census data, may commence an action in the superior court in declaratory relief to determine that fact. The action shall be brought within 42 days after the adoption of the redistricting ordinance or resolution.

21605. The council may appoint a committee composed of residents of the city to study the matter of changing the boundaries of the council districts. The committee shall make its report to the council of its findings on the need for change of boundaries, and the recommended changes by the first day of August of the year following the year in which the decennial federal census is taken. Recommendations of the committee are advisory only.

21606. (a) The term of office of any council member who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which he or she was elected.

(b) At the first election for council members in each city following adjustment of the boundaries of councilmanic districts, a council member shall be elected for each district under the readjusted district plan that has the same district number as a district whose incumbent's term is due to expire.

(c) Notwithstanding any other provision of this article, a change in the boundaries of a council district shall not be made within 90 days prior to the final date of voter registration for an election of council members in the city or between the municipal primary election and the general municipal election.

Article 2. Chartered Cities

21620. If the members of the governing body of a chartered city are nominated or elected "by districts" or "from districts," as defined in Section 34871 of the Government Code, upon the initial establishment thereof, the districts shall be as nearly equal in population as may be according to the latest federal decennial census or, if the city's charter so provides, according to the federal mid-decade census or the official census of the city, as provided for

pursuant to Chapter 17 (commencing with Section 40200) of Part 2 of Division 3 of Title 4 of the Government Code, as the case may be. After the initial establishment of the districts, the districts shall continue to be as nearly equal in population as may be according to the latest federal decennial census or, if authorized by the charter of the city, according to the federal mid-decade census.

SEC. 3. It is the intent of the Legislature in enacting this act to reorganize and clarify the Elections Code and thereby facilitate its administration. The Legislature intends that the changes made to the Elections Code, as reorganized by this act, have only technical and nonsubstantive effect. Hence, no change made by this act shall be construed to create any new right, duty, or other obligation that did not exist on the effective date of this act, or result in the limitation or termination of any right, duty, or other obligation that existed on the effective date of this act.

SEC. 4. The Legislature finds that the reorganization of the Elections Code pursuant to this act, in view of the nonsubstantive statutory changes made, will not result in new or additional costs to local agencies responsible for the conduct of elections or charged with any duties or responsibilities in connection therewith.

SEC. 5. Any section of any act enacted by the Legislature during the 1994 calendar year that takes effect on or before January 1, 1995, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section with the same number as a section repealed or added by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

SEC. 6. It is the intent of the Legislature that the tables set forth below indicating the derivation of the Elections Code sections as contained in Section 2 of this act, and the disposition of the former provisions of the Elections Code, serve as a temporary guide to the Elections Code as enacted by this act.

The information contained in the tables set forth below is for informational purposes only, and shall not be construed as creating any new right, power, duty, or other obligation, or as changing, limiting, or repealing any right, power, duty, or other obligation that existed on the effective date of this act.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
1	1	31	352	203	2022
2	2	32	351	204	2023
3	3	33	314	205	2024
4	4	34	313	206	2025
5	5	35	338	206.5	2026
6	6	36	337	207	2027
7	7	37	334	208	2028
8	353	38	329	209	2029
9	8	39	339	210	2030
10	310	40	319	211	2031
11	354	41	100	212	2032
12	335	41.5	101	214	346
13	311	42	102	215	2033
14	307	43	103	216	2034
15	320	44	104	217	2035
16	347	45	105	225	2050
17	321	47	9	226	2051
18	359	49	12	227	2052
19	318	50	14	228	2053
20	324	51	21000	300	2100
21	341	52	13	300.5	2101
22	340 [1]	53	106	301	2102
22	340 [2]	54	15450	302	2103
23	316 [1]	55	10	303	2104
23	316 [2]	58	11	304	2105
24	357	60	15	304.5	2106
25	328	70	200	305	2107
26	348	75	201	306	2108
27	356	100	2000	307	2109
28	327	200	349	308	2110
29	326	201	2020	309	2111
30	325	202	2021		

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
309.5	2112	509	2161	707.6	2209
310	2113	509.1	2162	707.7	2210
311	2114	509.3	2163	707.8	2211
311.5	2115	510	2164	708	2212
311.6	2116	511	2165	709	2213
312	2117	511.5	2166	800	2220
313	2118	512	2167	800.1	2221
315	2119	600	2180	800.2	2222
316	2120	601	2181	800.3	2223
318	2121	602	2182	801	2224
319	2122	603	2183	802	2225
320	2123	604	2184	803	2226
400	2135	604.5	305	804	2227
401	2136	605	2185	805	2228
402	2137	606	2186	825	2240
403	2138	607	2187	826	2241
404	2139	608	2188	827	2130
405	2140	609	2189	1000	300
406	2141	611	2190		320
407	2142	611.1	2191	1001	3000
408	2143	612	2192	1002	3001
500	2150	613	2193	1002.5	3002
501	2151	615	2194	1003	3003
502	2152	700	2200	1004	3004
503	2153	701	2201	1005	3005
503.5	2154	702	2202	1006	3006
504	2155	703	2203	1006.1	3007
505	2156	703.5	2204	1006.3	3008
506	2157	704	2205	1007	3009
507	2158	704.5	2206	1008	3010
507.5	2159	705	2207	1009	3011
508	2160	707.5	2208	1009.5	3012

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
1010	3013	1204	3106	1405	15005
1011	3014	1205	3107	1407	15006
1012	3015	1206	3108	1408	15007
1012.5	3016	1206.3	3109	1409	15008
1013	3017	1206.5	3110	1409.5	15009
1014	3018	1207	3111	1410	15010
1015	3019	1208	3112	1411	15011
1016	3020	1300	3300	1450	3200
1017	3021	1301	323	1451	3201
1018	3022	1302	3301	1452	3202
1019	3023	1303	3302	1453	3203
1100	322	1304	3303	1454	3204
1101	3400	1304.5	3304	1455	3205
1101.5	3401	1305	3305	1456	3206
1102	3402	1305.5	3306	1500	12200
1103	3403	1306	3307	1501	12220
1104	3404	1307	3308	1503	12260
1105	3405	1308	3309	1504	12283
1106	3406	1309	3310	1504.5	12282
1107	3407	1310	3311	1504.6	12284
1109	3408	1340	4000	1505	12223
1126	331	1340.5	4001 [5]	1506	12226
1127	3500	1341	4002	1507	12228
1128	3501	1350	4100	1508	12224
1129	3502	1351	4101	1508.5	12240
1130	3503	1352	4102	1509	12227
1200	3100	1353	4103	1510	12225
1201	3101	1400	15000	1511	12221
1202	3102	1401	15001	1513	12222
1202.1	3103	1402	15002	1513.1	12262
1202.3	3104	1403	15003	1514	12261
1203	3105	1404	15004		

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
1515	12325	1655	12312	3508	9009
1630	12301	2500	1000 [1]	3509	9010
1631	12304	2500	1000 [2]	3510	9011
1632	12305	2501	1001 [1]	3511	9012
1633	12302	2501	1001 [2]	3513	336
1634	12308	2502	1002	3514	9013
1635	12303	2503	1003	3515	9014
1636	12320	2520	1100	3515.1	9015
1637	12321	2550	1200	3516	9020
1637.5	12300	2551	1201 [1]	3517	9021
1638	12326	2551	1201 [2]	3519	9022
1638.5	12280	2552	1202 [1]	3520	9030
1638.7	12285	2552	1202 [2]	3521	9031
1639	12306	2553	12000	3522	9032
1640	12309	2600	1300	3523	9033
1641	12307	2601	1301	3523.1	9034
1642	12103	2602	1302	3524	9035
1642.3	12318	2603	1303	3525	9040
1642.9	12104	2604	1500	3526	9041
1643	12105	2650	1400	3527	9042
1643.3	12106	2651	10700	3528	9043
1644	12229	2652	10701	3529	9044
1645	12319	2653	12001	3530	9050
1646	12316	3500	9000	3531	9051
1647	12317	3501	9001	3532	9052
1648	12327	3502	9002	3533	9053
1649	12313	3502.05	9003	3559	9060
1650	12281	3503	9004	3560	9061
1651	12314	3504	9005	3561	9062
1652	12315	3505	9006	3562	9063
1653	12310	3506	9007	3563	9064
1654	12311	3507	9008		

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
3564	9065	3705	9110	3786	9166
3564.1	9066	3705.5	9111	3787	9167
3565	9067	3705.6	9112	3788	9168
3566	9068	3706	9113	3790	9180
3567	9069	3707	9114	3795	9190
3567.5	9080	3708	9115	4000	9200
3568	9081	3709	9116	4001	9201
3569	9082	3710	9117	4002	9202
3569.5	9083	3711	9118	4002.5	9203
3570	9084	3713	9119	4002.7	9204
3570.5	9085 [6]	3714	9120	4003	9205
3571	9086	3715	9121	4004	9206
3572	9087	3716	9122	4005	9207
3572.5	9088	3717	9123	4006	9208
3573	9089	3718	9124	4007	9209
3574	9090	3719	9125	4008	9210
3575	9091	3720	9126	4009	9211
3576	9092	3750	9140	4009.5	9212
3577	9093	3751	9141	4009.6	9213
3578	9094	3751.7	9142	4010	9214
3578.5	9095	3752	9143	4011	9215
3579	9096	3753	9144	4012	9216
3700	9100	3754	9145	4013	9217
3701	9101	3755	9146	4014	9218
3701.5	9102	3755.5	9147	4015	9219
3702	9103	3780	312	4015.5	9220
3702.1	9104	3781	9160	4016	9221
3702.5	9105	3782	9161	4017	9222
3702.7	9106	3783	9162	4018	9223
3703	9107	3784	9163	4019	9224
3704	9108	3785	9164	4020	9225
3704.5	9109	3785.1	9165		

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
4021	9226	5013	9282	5161	9322
4050	9235	5014	9283	5162	9323
4050.1	9236	5014.1	9284	5200	9340
4051	9237	5014.5	9285	5200.1	9341
4052	9238	5015	9286	5201	9342
4053	9239	5016	9287	5210	9360
4054	9240	5020	9290	5215	9380
4055	9241	5025	9295	5300	9400
4056	9242	5150	9300	5301	9401
4057	9243	5151	317	5302	9402
4058	9244	5151.5	308	5303	9403
4059	9245	5152	9301	5304	9404
4060	9246	5152.1	9302	5305	9405
4061	9247	5152.2	9303	5320	350
4080	9255	5152.3	9304	5321	9500
4081	8256	5152.4	9305	5322	9501
4082	9257	5152.5	9306	5323	9502
4083	8258	5152.6	9307	5324	9503
4084	9259	5153	9308	5325	9504
4085	9260	5153.5	9309	5326	9505
4086	9261	5154	9310	5327	9506
4087	9262	5154.3	9311	5328	9507
4088	9263	5156	9312	5329	9508
4089	9264	5156.5	9313	5330	9509
4090	9265	5156.6	9314	5350	9600
4091	9266	5157	9315	5351	9601
4093	9267	5157.2	9316	5352	9602
4094	9268	5157.5	9317	5353	9603
4095	9269	5157.6	9318	5354	9604
5010	306	5158	9319	5355	9605
5011	9280	5159	9320	5357	9606
5012	9281	5160	9321	5358	9607

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
6000	6300	6050	6954	6134	6564
6002	6301	6055	6420	6135	6565
6005	6320 [1]	6056	6421	6136	6566
6005	6320 [2]	6057	6422	6138	6567
6006	6321	6060	6440	6139	6568 [1]
6007	6322	6061	6441	6139	6568 [2]
6008	6323 [1]	6062	6442	6140	6580
6008	6323 [2]	6063	6443	6141	6581
6010	6340 [1]	6070	6460	6142	6582
6010	6340 [2]	6071	6461	6143	6583
6011	6341	6080	6480	6144	6584
6012	6342	6100	6500	6145	6585
6013	6343 [1]	6102	6501	6146	6586
6013	6343 [2]	6103	6502	6147	6587
6021	6360	6110	6520 [1]	6148	6588
6024	6361	6110	6520 [2]	6149	6589
6025	6362	6111	6521	6150	6590
6026	6363	6112	6522	6151	6591
6027	6364	6113	6523 [1]	6152	6592
6028	6365	6113	6523 [2]	6153	6593
6030	6380	6114	6524	6154	6594
6031	6381	6120	6540 [1]	6155	6595
6032	6382	6120	6540 [2]	6156	6596
6033	6383	6121	6541	6157	6597
6040	6400	6122	6542	6158	6598
6041	6401	6123	6543 [1]	6159	6599
6042	6402	6123	6543 [2]	6160	6953
6043	6403	6130	6560	6170	6620
6044	6404	6131	6561	6171	6621
6045	6405	6132	6562	6190	6640
6046	6406	6133	6563	6191	6641

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
6193	6642	6233	6763	6272	6822
6194	6643	6234	6764	6285	6840
6195	6644	6235	6765	6286	6841
6196	6645	6236	6766	6287	6842
6197	6646	6237	6767	6288	6843
6198	6647	6238	6768	6289	6844
6200	6700	6239	6769	6290	6845
6202	6701	6240	6780	6291	6846
6203	6702	6241	6781	6292	6847
6210	6720	6242	6782	6293	6848
6210.5	6721 [1]	6243	6783	6294	6849
6210.5	6721 [2]	6244	6784	6300	6000
6211	6722 [1]	6245	6785	6301	6001
6211	6722 [2]	6246	6786	6303	6002
6212	6723	6247	6787	6303.1	6003
6213	6724	6248	6788	6303.2	6004
6214	6725 [1]	6249	6789	6303.3	6005
6214	6725 [2]	6250	6790	6305	6020 [1]
6215	6726	6251	6791	6305	6020 [2]
6220	6740 [1]	6252	6792	6305.1	6021
6220	6740 [2]	6253	6793	6305.2	6022
6221	6741	6254	6794	6306	6023
6222	6742 [1]	6255	6795	6307	6024
6222	6742 [2]	6256	6796	6310	6040
6223	6743 [1]	6257	6797	6311	6041 [1]
6223	6743 [2]	6258	6798	6311	6041 [2]
6224	6744	6260	6951	6312	6042
6225	6745	6261	6952 [1]	6313	6043
6230	6760	6261	6952 [2]	6315	6060
6231	6761	6270	6820	6316	6061 [1]
6232	6762	6271	6821	6316	6061 [2]

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
6325	6080	6360	6180 [1]	6491	8040
6326	6081	6360	6180 [2]	6493	8060
6327	6082	6360.5	6950	6494	8041
6328	6083	6361.5	6181	6494.1	8061
6328.3	6084 [1]	6365	6200	6495	8062
6328.3	6084 [2]	6365.5	6201	6496	8063
6328.5	6085	6366	6202	6496.5	8064
6329	6086 [1]	6367	6203	6497	8065
6329	6086 [2]	6368	6204	6498	8042
6329.5	6087	6370	6220	6499	8066
6330	6100	6371	6221	6500	8067
6331	6101	6372	6222	6501	8068
6332	6102	6375	6240	6502	8069
6333	6103	6376	6241	6503	8102
6334	6104	6400	8000	6504	8080
6335	6105	6401	8001	6505	8070
6336	6106	6401.5	8002	6506	8081
6337	6107	6402	8003	6507	8082
6338	6108	6430	5100	6508	8083
6340	6120	6430.5	5101	6509	8021
6341	6121	6431	5102	6550	8100
6342	6122 [1]	6432	5200	6551	8101
6342	6122 [2]	6461	12100	6552	8103
6343	6123	6462	12101	6553	8104
6345	6140	6463	12102	6554	8105
6346	6141	6489	333	6555	8106
6347	6142	6490	8020	6555.5	8084
6348	6143	6490.1	8024	6556	8107
6349	6144	6490.2	8025	6580	8120
6350	6145	6490.3	8026	6580.5	8121
6351	6146	6490.4	8027		
6355	6160	6490.5	8028		

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
6581	8122	6803	8303	7302	8602
6582	8123	6804	8304	7303	8603
6583	8124	6810	8350	7304	8604
6584	8125	6831	8400	7310	8650
6610	15451	6831.1	8401	7311	8651
6611	8140	6832	8402	7312	8652
6612	8141	6833	8403	7313	8653
6613	8142	6834	8404	8000	7000
6614	8143	6834.1	8405	8500	7050
6614.5	8144	6835	8406	8510	7100
6615	8145	6836	8407	8660	7150
6616	8146	6837	8408	8660.1	7151
6617	8147	6838	8409	8660.2	7152
6618	8148	6860	8450	8660.3	7153
6619	8149	6861	8451	8661	7154
6620	8150	6862	8452	8662	7155
6650	8800	6863	8453	8663	7156
6651	8801	6864	8454	8664	7157
6651.5	8802	6890	8500	8665	7158
6653	8803	6891	8501	8666	7159
6653.3	8804	6892	8502	8667	7160
6654	8805	6893	8503	8668	7161
6655	8806	6894	8504	8669	7162
6656	8807	6920	8550	8670	7163
6657	8808	7200	10702	8671	7164
6658	8809	7200.5	10703	8672	7165
6659	8810	7201	10704	8673	7166
6660	8811	7202	10705	8674	7167
6661	8605	7203	10706	8675	7168
6800	8300	7204	10707	8676	7169
6801	8301	7300	8600	8677	7170
6802	8302	7301	8601	8678	7171

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
8711	7180	8871	7226	9241	7377
8740	7185	8872	7227	9242	7378
8740.5	7186	8873	7228	9243	7379
8741	7187	8874	15460	9270	7380
8744	7188	8875	7229	9271	7381
8770	7190	8923	7235	9272	7382
8771	7191	8940	7240	9273	7383
8772	7192	8941	7241	9274	7384
8773	7193	8942	7242	9276	7385
8774	7194	8943	7243	9277	7386
8775	7195	8944	7244	9278	7387
8776	7196	9000	7250	9279	7388
8777	7197	9010	7300	9280	7389
8778	7198	9160	7350	9320	7400
8820	7200	9160.5	7351	9321	7401
8820.5	7201	9160.7	7352	9322	7402
8821	7202	9160.8	7353	9323	7403
8822	7203	9160.9	7354	9324	7404
8823	7204	9161	7355	9325	7405
8823.5	7205	9161.5	7356	9326	7406
8824	7206	9162	7357	9327	7407
8825	7207	9163	7358	9328	7408
8826	7208	9164	7359	9329	7409
8827	7209	9165	7360	9330	7410
8828	7210	9166	7361	9331	7411
8829	7211	9167	7362	9332	7412
8830	7212	9168	7363	9333	7413
8831	7213	9169	7364	9334	7414
8832	7214	9170	7365	9370	7420
8833	7215	9171	7366	9371	7421
8834	7216	9240	7375	9372	7422
8870	7225	9240.5	7376	9373	7423

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
9374	15470	9618	7561	9683	7638
9375	7424	9620	7570	9684	7639
9422	7430	9630	7575	9685	7640
9423	7431	9631	7576	9686	7641
9440	7440	9632	7577	9687	7642
9441	7441	9633	7578	9688	7643
9442	7442	9634	7579	9689	7644
9443	7443	9635	7580	9690	7645
9444	7444	9640	7600	9700	7650
9500	7460	9640.1	7601	9701	7651
9501	7461	9640.2	7602	9702	7652
9502	7462	9641	7603	9703	7653
9503	7463	9642	7604	9704	7654
9504	7464	9643	7605	9705	7655
9505	7465	9644	7606	9706	7656
9506	7466	9645	7607	9707	7657
9507	7467	9646	7608	9708	7658
9508	7468	9647	7609	9709	7659
9509	7469	9648	7610	9710	7660
9510	7470	9649	7611	9711	7661
9600	7500	9650	7612	9720	7670
9610	7550	9651	7613	9721	7671
9611	7551	9652	7614	9722	7672
9611.5	7552	9660	7620	9723	7673
9611.6	7553	9661	7621	9724	15480
9611.7	7554	9670	7625	9725	7674
9612	7555	9670.5	7626	9730	7680
9613	7556	9671	7627	9731	7681
9614	7557	9672	7628	9732	7682
9615	7558	9680	7635	9733	7683
9616	7559	9681	7636	9740	7690
9617	7560	9682	7637	9741	7691

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
9742	7692	9793	7804	9950	5000
9743	7693	9794	7805	9951	5001
9744	7694	9801	7820	9952	5002
9745	7695	9810	7930	9953	5003
9750	7700	9811	7831	9954	5004
9760	7750	9812	7832	9955	5005
9761	7751	9813	7833	9956	5006
9762	7752	9814	7834	10000	13001 [3]
9763	7753	9815	7835	10000	13001 [4]
9764	7754	9816	7836	10001	13002
9765	7755	9816.5	7837	10001.5	13003
9770	7770	9817	7838	10002	13004
9771	7771	9819	7839	10002.5	13005
9772	7772	9820	7840	10003	13006
9773	7773	9821	7841	10004	13007
9774	7774	9822	7842	10005	13000
9775	7775	9823	7843	10006	13200
9776	7776	9831	7850	10007	13300
9777	7777	9832	7851	10008	13301
9779	7778	9833	7852	10009	13302
9780	7779	9834	7853	10010	13303
9781	7780	9835	7854	10010.2	13304
9782	7781	9836	7855	10010.5	13305
9783	15490	9837	7856	10011	13306
9784	7782	9838	7857	10012	13307
9785	7783	9842	7870	10012.1	13308
9786	7784	9843	7871	10012.3	13309
9787	7785	9850	7880	10012.5	13310
9790	7800	9851	7881	10012.7	13311
9790.5	7801	9852	7882	10013	13312
9791	7802	9853	7883	10013.5	13313
9792	7803	9854	7884		

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
10014	13219	10223	13213	10325	13245
10015	13314	10224	13214	10326	13246
10016	13101	10225	13215	10327	13247
10017	13315	10226	13216	10330	301
10200	13100	10227	13217	10331	302
10200.5	13102	10229	13231	10332	344
10201	13103	10230	13230		345
10203	13203	10230.1	13232	10333	13260
10204	13204	10231	13118	10334	13261
10205	13205	10232	13201	10335	13262
10206	13206	10233	13220	10336	13263
10207	13207	10234	13233	10337	13264
10208	13208	10235	13119	10338	13265
10208.5	13209	10236	13120	10339	13266
10209	13104	10300	303	10340	13267
10210	13105	10301	13280	11700	20000
10210.5	13106	10302	13281	11701	20001
10211	13107	10302.5	13282	11702	20002
10212	13108	10303	13283	11703	20003
10213	13109	10304	13284	11704	20004
10214	13110	10305	13285	11705	20005
10215	13202	10306	13286	11706	20006
10216	13111	10307	13287	11707	20007
10217	13112	10307.5	13316	11708	20008
10217.5	13113	10308	13288	11709	20009
10217.7	13114	10309	13289	11710	16
10218	13115	10320	13240	12200	20100
10219	13116	10321	13241	12300	20200
10219.5	13117	10322	13242	12300.1	305
10220	13210	10323	13243	12301	20201
10221	13211	10324	13244	12302	20202
10222	13212	10324.5	13317	12303	20203

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
12400	20300	14204	14202	14237	14284
12401	20301	14205.5	14203	14238	14321
12500	20400	14206	14212	14239	14285
12510	20420	14207	14213	14240	14286
12511	304	14208	14214	14241	14287
12512	305	14209	14215	14242	14288
12513	20420	14210	14320	14243	14290
12520	20440	14211	14216	14244	14291
12522	20441	14212	14217	14245	14292
12523	20442	14213	14218	14246	14293
12524	20443	14214	14219	14247	14294
12525	20444	14215	14220	14249	14295
12527	20500	14216	14240	14250	14296
12528	20501	14217	14241	14251	14294
12530	20502	14218	14242	14252	14298
14000	14100	14219	14243	14253	14310
14001	14101	14220	14244	14255	14299
14002	14102	14221	14245	14300	14400
14003	14103	14222	14246	14301	14401
14004	14104	14223	14247	14302	14402
14005	14105	14224	14248	14303	14403
14005.4	14106	14225	14249	14304	14404
14005.5	14107	14226	14250	14305	14405
14005.6	14108	14227	14251	14306	14406
14006	14109	14228	14252	14350	14000
14007	14110	14229	14253	14351	14001
14008	14111	14230	14278	14352	14002
14009	10405	14231	14279	14354	14003
14200	14210	14232	14280	14400	14221
14201	14211	14233	14281	14400.1	14222
14202	14200	14234	14282	14401	14223
14203	14201	14236	14283	14402	14224

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
14403	14225	15020	19001	15206	12356
14404	14226	15021	19002	15207	12357
14405	14227	15022	19003	15209	14112
14427	14289	15023	19210	15210	14113
14500	17000	15024	19211	15220	14270
14510	17001	15025	19005	15221	14271
14600	17100	15026	19212	15222	14272
14700	17200	15100	19100	15223	14273
14800	17300	15101	19203	15224	14274
14810	17301	15102	19101	15225	14275
14811	17302	15103	19102	15226	14276
14820	17303	15104	19204	15227	14277
14821	17304	15105	19103	15240	14420
14830	17305	15110	19200	15241	14421
14831	17306	15111	19201	15242	14422
14900	17400	15112	19202	15243	14423
14950	17500	15113	19205	15260	15260
14960	17501	15114	19206	15261	15261
14970	17502	15115	19207	15262	15262
14971	17503	15116	19208	15263	15263
14980	17504	15117	19209	15264	15264
14981	17505	15118	19213	15265	15265
14990	17506	15119	19220	15266	15266
15000	Rep.	15120	19221	15267	15267
15003	315	15121	19004	15268	15268
15004	320	15122	19222	15269	15269
15005	344	15200	12350	15270	15270
15006	355	15201	12351	15271	15271
15007	360	15202	12352	15272	15272
15008	361	15203	12353	15272.5	15273
15009	362	15204	12354	15273	15274
15010	358	15205	12355	15274	15275

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
15275	15276	17006	15056	17061	15201
15276	15277	17007	15057	17063	15202
15300	19300	17008	15058	17070	15250
15301	19301	17009	15059	17071	15251
15302	19302	17010	15060	17080	15300
15303	19303	17011	15061	17081	15301
15304	19304	17012	15062	17082	15302
15320	19320	17013	15063	17083	15303
15321	19321	17014	15064	17084	15304
15322	19322	17020	15080	17085	15305
15340	19340	17021	15081	17086	15306
15341	19341	17022	15082	17087	15307
15342	19323	17024	15083	17088	15308
15343	19360	17025	15084	17089	15309
15344	19361	17026	15085	17090	15310
15345	19362	17030	15100	17091	15311
15346	19363	17031	15101	17100	15350
15360	19380	17032	15102	17101	15351
15361	19381	17033	15103	17102	15352
15362	19382	17040	15120	17103	15353
15363	19370	17041	15121	17110	15452
15364	19383	17042	15122	17111	15400
15365	19371	17050	12107	17112	15401
15367	19384	17052	15150	17113	15402
15368	19385	17053	15151	17120	15500
15369	19386	17054	15152	17121	15501
17000	15050	17055	15153	17122	15502
17001	15051	17056	15154	17123	15504
17002	15052	17057	15155	17124	15505
17003	15053	17058	15156	17130	15550
17004	15054	17059	15157	17134	15551
17005	15055	17060	15200	17136	15552

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
17140	15600	20053	16403	20338	16720
17150	15610	20080	16500	20339	16920
17160	15620	20081	16501	20360	16460
17160.5	15621	20082	16502	20361	16461
17161	15622	20083	16600	20362	16462
17162	15623	20084	16601	20363	16463
17163	15624	20085	16602	20364	16464
17164	15625	20086	16603	20365	16540
17165	15626	20087	16703	20366	16465
17166	15627	20088	16503	20367	16466
17167	15628	20089	16000	20368	16467
17168	15629	20110	16700	20369	16640
17169	15630	20111	16701	20370	16641
17170	15631	20112	16800	20371	16642
17171	15632	20113	16801	20372	16643
17172	15633	20114	16802	20373	16740
17173	15634	20115	16900	20374	16940
17180	15640	20116	16702	20375	16741
17182	15641	20300	16101	20376	16742
17183	15642	20301	16420	20500	15650
17190	15645	20302	16404	20501	15651
20000	16001	20303	16421	20502	15652
20001	16002	20304	16300	20502.5	15653
20002	16003	20305	16803	20503	15654
20020	16200	20330	16440	20530	15670
20021	16100	20331	16441	20531	15671
20022	16201	20332	16442	20532	15672
20023	16202	20333	16443	20533	15673
20024	16203	20334	16444	22000	10000
20050	16400	20335	16520	22002	10001
20051	16401	20336	16521	22003	10002
20052	16402	20337	16620	22004	10003

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
22005	10004	22843.5	10229	23303	10408
22030	12241	22900	10240	23304	10409
22050	12322	22902	10241	23305	10410
22051	12323	22903	10242	23306	10411
22052	12324	22904	10243	23307	10412
22600	10100	22930	10260	23308	10413
22601	10101	22930.5	10261	23309	10414
22602	10102	22932	10262	23310	10415
22603	10103	22932.5	10263	23311	10416
22800	342	22933	10264	23312	10417
22801	12108	22934	10265	23314	10418
22802	12328	22935	10266	23500	10500
22804	12329	23100	10300	23501	10501
22805	12330	23101	10301	23502	10502
22806	10200	23102	10302	23502.5	10503
22807	10201	23103	10303	23503	10500
22808	10202	23104	10304	23504	10504
22830	12109	23105	10305	23506	10505
22831	12110	23106	10306	23507	10506
22832	12111	23107	10307	23508	10507
22833	12112	23108	10308	23509	1304
22834	12113	23109	10309	23509.1	4106
22835	12114	23110	10310	23509.2	4107
22836	10220	23111	10311	23509.5	1501
22837	10221	23112	10312	23510	10508
22838	10222	23300	10400	23510.5	10509
22839	10223	23301	10401	23511	12115
22840	10224	23301.5	10402	23511.1	4108
22840.5	10225	23302	10403	23511.2	4104
22841	10226	23302.1	10404	23511.3	4105
22842	10227	23302.3	10406	23511.4	4003
22843	10228	23302.5	10407	23512	10510

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
23512.12	10513	23540.5	10540	25103	6904
23512.2	10511	23541	10541	25104	6905
23512.6	10512	23542	10542	25105	6906
23513	10514	23543	10543	25106	6907
23520	10515	23544	10544	25107	6908
23521	12116	23547	10545	25108	6909
23521.5	10516	23549	10546	25300	8200
23523	10517	23550	10547	25301	8023
23523.5	10518	23551	10548	25302	8201
23523.7	10519	23552	10549	25303	8202
23524	10520	23553	10550	25304	8203
23525	10521	23554	10551	25305	8204
23526	10522	23554.5	10552	25330	8220
23526.5	10523	23555	10553	25331	8221
23527	10524	23556	10554	25332	8222
23527.5	10525	23557	10555	25333	8223
23528	12286	23557.5	1502	25334	8224
23529	10526	23558	10556	25335	8225
23529.5	10527	24000	10600	25336	8226
23530	10528	24001	10601	25337	8227
23530.5	10529	24002	10602	25338	8228
23531	10530	24003	12118	25500	8022
23531.5	10531	24004	13121	27000	11000
23532	10532	24005	10603	27001	11001
23533	10533	25000	324	27002	11002
23534	10534	25001	10720	27003	11003
23535	10535	25003	8700	27004	322
23536	10536	25050	15503	27005	11004
23537	10537	25100	6900	27006	11005
23538	10538	25100.5	6901	27007	11006
23539	10539	25101	6902	27008	11007
23540	12117	25102	6903	27020	11020

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
27021	11021	27303	11302	29203.7	18105
27022	11022	27304	11303	29204	18106
27023	11023	27310	11320	29205	18107
27024	11024	27311	11321	29206	18108
27030	11040	27312	11322	29207	18109
27031	11041	27313	11323	29300	18200
27031.5	11042	27315	11324	29301	18201
27032	11043	27316	11325	29302	18202
27033	11044	27316.1	11326	29303	18203
27035	11045	27317	11327	29304	18204
27036	11046	27320	11328	29305	18205
27037	11047	27321	11329	29413	18300
27100	11100	27330	11360	29414	18301
27101	11101	27331	11361	29415	18302
27102	11102	27332	11362	29416	18303
27103	11103	27333	11363	29420	18310
27104	11104	27334	11364	29421	18311
27200	11200	27340	11380	29430	18320
27201	11201	27341	11381	29440	18340
27210	11220	27342	11382	29450	18350
27211	11221	27343	11383	29451	18351
27212	11222	27344	11384	29460	18360
27213	11223	27345	11385	29462	18361
27214	11224	27346	11386	29470	18370
27215	11225	29100	18000	29473	18371
27216	11226	29101	18001	29480	18380
27217	11227	29102	18002	29490	18390
27230	11240	29200	18100	29500	18400
27230.5	11241	29200.5	18101	29501	18401
27231	11242	29201	18102	29505	18402
27301	11300	29202	18103	29506	18403
27302	11301	29203	18104	29610	18500

See footnotes at conclusion of this table.

DERIVATION TABLE—1994 AMENDMENTS

OLD	NEW	OLD	NEW	OLD	NEW
29611	18501	29656	18576	30011	Rep.
29612	18502	29657	18577	30020	Rep.
29620	18520	29658	18578	30020.5	Rep.
29621	18521	29710	342	30021	Rep.
29622	18522	29711	343	30022	Rep.
29623	18523	29720	18600	30030	Rep.
29624	18524	29721	18601	30031	Rep.
29630	18540	29722	18602	30032	Rep.
29630.5	18541	29723	18603	30040	Rep.
29631	18542	29730	18610	30041	Rep.
29632	18543	29731	18611	30042	Rep.
29634	18544	29732	18612	30043	Rep.
29635	18545	29733	18613	30044	Rep.
29636	18546	29734	18614	35000	21500
29640	18560	29740	18620	35001	21501
29641	18561	29741	18621	35002	21502
29643	18562	29742	18622	35003	21503
29644	18563	29750	18630	35004	21504
29645	18564	29751	18631	35005	21505
29645.1	18565	29760	18640	35006	21506
29646	18566	29770	18650	35100	21600
29647	18567	29780	18660	35101	21601
29648	18568	29781	18661	35102	21602
29649	18569	29790	18670	35103	21603
29650	18570	29791	18671	35104	21604
29651	18571	29795	18680	35105	21605
29652	18572	29800	18700	35106	21606
29653	18573	30000	21001	35150	21620
29654	18574	30001	21002		
29655	18575	30010	Rep.		

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[1] Repeal operative January 1, 1998.
[2] Operative January 1, 1998.
[3] Repeal operative January 1, 1996.
[4] Operative January 1, 1996.
[5] Repeal operative January 1, 1995.
[6] Repeal operative January 1, 1999.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
1	1		12512	333	6489
2	2	306	5010	334	37
3	3	307	14	335	12
4	4	308	5151.5	336	3513
5	5	309	12300.1	337	36
6	6	310	10	338	35
7	7	311	13	339	39
8	9	312	3780	340	22 [1]
9	47	313	34	340	22 [2]
10	55	314	33	341	21
11	58	315	15003	342	29710
12	49	316	23 [1]	343	29711
13	52	316	23 [2]	344	10332
14	50	317	5151		15005
15	60	318	19	345	10332
16	11710	319	40	346	214
100	41	320	15	347	16
101	41.5		15004	348	26
102	42	321	17	349	200
103	43	322	1100	350	5320
104	44		27004	351	32
105	45	323	1301	352	31
106	53	324	20	353	8
200	70		25000	354	11
201	75	325	30	355	15006
300	1000	326	29	356	27
301	10330	327	28	357	24
302	10331	328	25	358	15010
303	10300	329	38	359	18
304	12511	330	17	360	15007
305	604.5	331	1126		
	12300.1	332	27004		

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
361	15008	2028	208	2120	316
362	15009	2029	209	2121	318
1000	2500 [1]	2030	210	2122	319
1000	2500 [2]	2031	211	2123	320
1001	2501 [1]	2032	212	2130	827
1001	2501 [2]	2033	215	2135	400
1002	2502	2034	216	2136	401
1003	2503	2035	217	2137	402
1100	2520	2050	225	2138	403
1200	2550	2051	226	2139	404
1201	2551 [1]	2052	227	2140	405
1201	2551 [2]	2053	228	2141	406
1202	2552 [1]	2100	300	2142	407
1202	2522 [2]	2101	300.5	2143	408
1300	2600	2102	301	2150	500
1301	2601	2103	302	2151	501
1302	2602	2104	303	2152	502
1303	2603	2105	304	2153	503
1304	23509	2106	304.5	2154	503.5
1400	2650	2107	305	2155	504
1500	2604	2108	306	2156	505
1501	23509.5	2109	307	2157	506
1502	23557.5	2110	308	2158	507
2000	100	2111	309	2159	507.5
2020	201	2112	309.5	2160	508
2021	202	2113	310	2161	509
2022	203	2114	311	2162	509.1
2023	204	2115	311.5	2163	509.3
2024	205	2116	311.6	2164	510
2025	206	2117	312	2165	511
2026	206.5	2118	313	2166	511.5
2027	207	2119	315		

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
2167	512	2222	800.2	3023	1019
2180	600	2223	800.3	3100	1200
2181	601	2224	801	3101	1201
2182	602	2225	802	3102	1202
2183	603	2226	803	3103	1202.1
2184	604	2227	804	3104	1202.3
2185	605	2228	805	3105	1203
2186	606	2240	825	3106	1204
2187	607	2241	826	3107	1205
2188	608	3000	1001	3108	1206
2189	609	3001	1002	3109	1206.3
2190	611	3002	1002.5	3110	1206.5
2191	611.1	3003	1003	3111	1207
2192	612	3004	1004	3112	1208
2193	613	3005	1005	3200	1450
2194	615	3006	1006	3201	1451
2200	700	3007	1006.1	3202	1452
2201	701	3008	1006.3	3203	1453
2202	702	3009	1007	3204	1454
2203	703	3010	1008	3205	1455
2204	703.5	3011	1009	3206	1456
2205	704	3012	1009.5	3300	1300
2206	704.5	3013	1010	3301	1302
2207	705	3014	1011	3302	1303
2208	707.5	3015	1012	3303	1304
2209	707.6	3016	1012.5	3304	1304.5
2210	707.7	3017	1013	3305	1305
2211	707.8	3018	1014	3306	1305.5
2212	708	3019	1015	3307	1306
2213	709	3020	1016	3308	1307
2220	800	3021	1017	3309	1308
2221	800.1	3022	1018	3310	1309

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
3311	1310	5004	9954	6084	6328.3 [1]
3400	1101	5005	9955	6084	6328.3 [2]
3401	1101.5	5006	9956	6085	6328.5
3402	1102	5100	6430	6086	6329 [1]
3403	1103	5101	6430.5	6086	6329 [2]
3404	1104	5102	6431	6087	6329.5
3405	1105	5200	6432	6100	6330
3406	1106	6000	6300	6101	6331
3407	1107	6001	6301	6102	6332
3408	1109	6002	6303	6103	6333
3500	1127	6003	6303.1	6104	6334
3501	1128	6004	6303.2	6105	6335
3502	1129	6005	6303.3	6106	6336
3503	1130	6020	6305 [1]	6107	6337
4000	1340	6020	6305 [2]	6108	6338
4001	1340.5 [5]	6021	6305.1	6120	6340
4002	1341	6022	6305.2	6121	6341
4003	23511.4	6023	6306	6122	6342 [1]
4100	1350	6024	6307	6122	6342 [2]
4101	1351	6040	6310	6123	6343
4102	1352	6041	6311 [1]	6140	6345
4103	1353	6041	6311 [2]	6141	6346
4104	23511.2	6042	6312	6142	6347
4105	23511.3	6043	6313	6143	6348
4106	23509.1	6060	6315	6144	6349
4107	23509.2	6061	6316 [1]	6145	6350
4108	23511.1	6061	6316 [2]	6146	6351
5000	9950	6080	6325	6160	6355
5001	9951	6081	6326	6180	6360 [1]
5002	9952	6082	6327	6180	6360 [2]
5003	9953	6083	6328	6181	6361.5

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
6200	6365	6383	6033	6542	6122
6201	6365.5	6400	6040	6543	6123 [1]
6202	6366	6401	6041	6543	6123 [2]
6203	6367	6402	6042	6560	6130
6204	6368	6403	6043	6561	6131
6220	6370	6404	6044	6562	6132
6221	6371	6405	6045	6563	6133
6222	6372	6406	6046	6564	6134
6240	6375	6420	6055	6565	6135
6241	6376	6421	6056	6566	6136
6300	6000	6422	6057	6567	6138
6301	6002	6440	6060	6568	6139 [1]
6320	6005 [1]	6441	6061	6568	6139 [2]
6320	6005 [2]	6442	6062	6580	6140
6321	6006	6443	6063	6581	6141
6322	6007	6460	6070	6582	6142
6323	6008	6461	6071	6583	6143
6340	6010	6480	6080	6584	6144
6341	6011	6500	6100	6585	6145
6342	6012	6501	6102	6586	6146
6343	6013 [1]	6502	6103	6587	6147
6343	6013 [2]	6520	6110 [1]	6588	6148
6360	6021	6520	6110 [2]	6589	6149
6361	6024	6521	6111	6590	6150
6362	6025	6522	6112	6591	6151
6363	6026	6523	6113 [1]	6592	6152
6364	6027	6523	6113 [2]	6593	6153
6365	6028	6524	6114	6594	6154
6380	6030	6540	6120 [1]	6595	6155
6381	6031	6540	6120 [2]	6596	6156
6382	6032	6541	6121	6597	6157

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
6598	6158	6743	6223 [2]	6798	6258
6599	6159	6744	6224	6820	6270
6620	6170	6745	6225	6821	6271
6621	6171	6760	6230	6822	6272
6640	6190	6761	6231	6840	6285
6641	6191	6762	6232	6841	6286
6642	6193	6763	6233	6842	6287
6643	6194	6764	6234	6843	6288
6644	6195	6765	6235	6844	6289
6645	6196	6766	6236	6845	6290
6646	6197	6767	6237	6846	6291
6647	6198	6768	6238	6847	6292
6700	6200	6769	6239	6848	6293
6701	6202	6780	6240	6849	6294
6702	6203	6781	6241	6900	25100
6720	6210	6782	6242	6901	25100.5
6721	6210.5 [1]	6783	6243	6902	25101
6721	6210.5 [2]	6784	6244	6903	25102
6722	6211 [1]	6785	6245	6904	25103
6722	6211 [2]	6786	6246	6905	25104
6723	6212	6787	6247	6906	25105
6724	6213	6788	6248	6907	25106
6725	6214 [1]	6789	6249	6908	25107
6725	6214 [2]	6790	6250	6909	25108
6726	6215	6791	6251	6950	6360.5
6740	6220 [1]	6792	6252	6951	6260
6740	6220 [2]	6793	6253	6952	6261 [1]
6741	6221	6794	6254	6952	6261 [2]
6742	6222 [1]	6795	6255	6953	6160
6742	6222 [2]	6796	6256	6954	6050
6743	6223 [1]	6797	6257	7000	8000

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
7050	8500	7193	8773	7243	8943
7100	8510	7194	8774	7244	8944
7150	8660	7195	8775	7250	9000
7151	8660.1	7196	8776	7300	9010
7152	8660.2	7197	8777	7350	9160
7153	8660.3	7198	8778	7351	9160.5
7154	8661	7200	8820	7352	9160.7
7155	8662	7201	8820.5	7353	9160.8
7156	8663	7202	8821	7354	9160.9
7157	8664	7203	8822	7355	9161
7158	8665	7204	8823	7356	9161.5
7159	8666	7205	8823.5	7357	9162
7160	8667	7206	8824	7358	9163
7161	8668	7207	8825	7359	9164
7162	8669	7208	8826	7360	9165
7163	8670	7209	8827	7361	9166
7164	8671	7210	8828	7362	9167
7165	8672	7211	8829	7363	9168
7166	8673	7212	8830	7364	9169
7167	8674	7213	8831	7365	9170
7168	8675	7214	8832	7366	9171
7169	8676	7215	8833	7375	9240
7170	8677	7216	8833	7376	9240.5
7171	8678	7225	8870	7377	9241
7180	8711	7226	8871	7378	9242
7185	8740	7227	8872	7379	9243
7186	8740.5	7228	8873	7380	9270
7187	8741	7229	8875	7381	9271
7188	8744	7235	8923	7382	9272
7190	8770	7240	8940	7383	9273
7191	8771	7241	8941	7384	9274
7192	8772	7242	8942	7385	9276

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
7386	9277	7461	9501	7602	9640.2
7387	9278	7462	9502	7603	9641
7388	9279	7463	9503	7604	9642
7389	9280	7464	9504	7605	9643
7400	9320	7465	9505	7606	9644
7401	9321	7466	9506	7607	9645
7402	9322	7467	9507	7608	9646
7403	9323	7468	9508	7609	9647
7404	9324	7469	9509	7610	9648
7405	9325	7470	9510	7611	9649
7406	9326	7500	9600	7612	9650
7407	9327	7550	9610	7613	9651
7408	9328	7551	9611	7614	9652
7409	9329	7552	9611.5	7620	9660
7410	9330	7553	9611.6	7621	9661
7411	9331	7554	9611.7	7625	9670
7412	9332	7555	9612	7626	9670.5
7413	9333	7556	9613	7627	9671
7414	9334	7557	9614	7628	9672
7420	9370	7558	9615	7635	9680
7421	9371	7559	9616	7636	9681
7422	9372	7560	9617	7637	9682
7423	9373	7561	9618	7638	9683
7424	9375	7570	9620	7639	9684
7430	9422	7575	9630	7640	9685
7431	9423	7576	9631	7641	9686
7440	9440	7577	9632	7642	9687
7441	9441	7578	9633	7643	9688
7442	9442	7579	9634	7644	9689
7443	9443	7580	9635	7645	9690
7444	9444	7600	9640	7650	9700
7460	9500	7601	9640.1	7651	9701

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
7652	9702	7770	9770	7839	9819
7653	9703	7771	9771	7840	9820
7654	9704	7772	9772	7841	9821
7655	9705	7773	9773	7842	9822
7656	9706	7774	9774	7843	9823
7657	9707	7775	9775	7850	9831
7658	9708	7776	9776	7851	9832
7659	9709	7777	9777	7852	9833
7660	9710	7778	9779	7853	9834
7661	9711	7779	9780	7854	9835
7670	9720	7780	9781	7855	9836
7671	9721	7781	9782	7856	9837
7672	9722	7782	9784	7857	9838
7673	9723	7783	9785	7870	9842
7674	9725	7784	9786	7871	9843
7680	9730	7785	9787	7880	9850
7681	9731	7800	9790	7881	9851
7682	9732	7801	9790.5	7882	9852
7683	9733	7802	9791	7883	9853
7690	9740	7803	9792	7884	9854
7691	9741	7804	9793	8000	6400
7692	9742	7805	9794	8001	6401
7693	9743	7820	9801	8002	6401.5
7694	9744	7830	9810	8003	6402
7695	9745	7831	9811	8020	6490
7700	9750	7832	9812	8021	6509
7750	9760	7833	9813	8022	25500
7751	9761	7834	9814	8023	25301
7752	9762	7835	9815	8024	6490.1
7753	9763	7836	9816	8025	6490.2
7754	9764	7837	9816.5	8026	6490.3
7755	9765	7838	9817	8027	6490.4

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
8028	6490.5	8124	6583	8350	6810
8040	6491	8125	6584	8400	6831
8041	6494	8140	6611	8401	6831.1
8042	6498	8141	6612	8402	6832
8060	6493	8142	6613	8403	6833
8061	6494.1	8143	6614	8404	6834
8062	6495	8144	6614.5	8405	6834.1
8063	6496	8145	6615	8406	6835
8064	6496.5	8146	6616	8407	6836
8065	6497	8147	6617	8408	6837
8066	6499	8148	6618	8409	6838
8067	6500	8149	6619	8450	6860
8068	6501	8150	6620	8451	6861
8069	6502	8200	25300	8452	6862
8070	6505	8201	25302	8453	6863
8080	6504	8202	25303	8454	6864
8081	6506	8203	25304	8500	6890
8082	6507	8204	25305	8501	6891
8083	6508	8220	25330	8502	6892
8084	6555.5	8221	25331	8503	6893
8100	6550	8222	25332	8504	6894
8101	6551	8223	25333	8550	6920
8102	6503	8224	25334	8600	7300
8103	6552	8225	25335	8601	7301
8104	6553	8226	25336	8602	7302
8105	6554	8227	25337	8603	7303
8106	6555	8228	25338	8604	7304
8107	6556	8300	6800	8605	6661
8120	6580	8301	6801	8650	7310
8121	6580.5	8302	6802	8651	7311
8122	6581	8303	6803	8652	7312
8123	6582	8304	6804	8653	7313

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
8700	25003	9030	3520	9087	3572
8800	6650	9031	3521	9088	3572.5
8801	6651	9032	3522	9089	3573
8802	6651.5	9033	3523	9090	3574
8803	6653	9034	3523.1	9091	3575
8804	6653.3	9035	3524	9092	3576
8805	6654	9040	3525	9093	3577
8806	6655	9041	3526	9094	3578
8807	6656	9042	3527	9095	3578.5
8808	6657	9043	3528	9096	3579
8809	6658	9044	3529	9100	3700
8810	6659	9050	3530	9101	3701
8811	6660	9051	3531	9102	3701.5
9000	3500	9052	3532	9103	3702
9001	3501	9053	3533	9104	3702.1
9002	3502	9060	3559	9105	3702.5
9003	3502.05	9061	3560	9106	3702.7
9004	3503	9062	3561	9107	3703
9005	3504	9063	3562	9108	3704
9006	3505	9064	3563	9109	3704.5
9007	3506	9065	3564	9110	3705
9008	3507	9066	3564.1	9111	3705.5
9009	3508	9067	3565	9112	3705.6
9010	3509	9068	3566	9113	3706
9011	3510	9069	3567	9114	3707
9012	3511	9080	3567.5	9115	3708
9013	3514	9081	3568	9116	3709
9014	3515	9082	3569	9117	3710
9015	3515.1	9083	3569.5	9118	3711
9020	3516	9084	3570	9119	3713
9021	3517	9085	3570.5 [6]	9120	3714
9022	3519	9086	3571		

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
9121	3715	9207	4005	9247	4061
9122	3716	9208	4006	9255	4080
9123	3717	9209	4007	9256	4081
9124	3718	9210	4008	9257	4082
9125	3719	9211	4009	9258	4083
9126	3720	9212	4009.5	9259	4084
9140	3750	9213	4009.6	9260	4085
9141	3751	9214	4010	9261	4086
9142	3751.7	9215	4011	9262	4087
9143	3752	9216	4012	9263	4088
9144	3753	9217	4013	9264	4089
9145	3754	9218	4014	9265	4090
9146	3755	9219	4015	9266	4091
9147	3755.5	9220	4015.5	9267	4093
9160	3781	9221	4016	9268	4094
9161	3782	9222	4017	9269	4095
9162	3783	9223	4018	9280	5011
9163	3784	9224	4019	9281	5012
9164	3785	9225	4020	9282	5013
9165	3785.1	9226	4021	9283	5014
9166	3786	9235	4050	9284	5014.1
9167	3787	9236	4050.1	9285	5014.5
9168	3788	9237	4051	9286	5015
9180	3790	9238	4052	9287	5016
9190	3795	9239	4053	9290	5020
9200	4000	9240	4054	9295	5025
9201	4001	9241	4055	9300	5150
9202	4002	9242	4056	9301	5152
9203	4002.5	9243	4057	9302	5152.1
9204	4002.7	9244	4058	9303	5152.2
9205	4003	9245	4059	9304	5152.3
9206	4004	9246	4060	9305	5152.4

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
9306	5152.5	9503	5324	10225	22840.5
9307	5152.6	9504	5325	10226	22841
9308	5153	9505	5326	10227	22842
9309	5153.5	9506	5327	10228	22843
9310	5154	9507	5328	10229	22843.5
9311	5154.3	9508	5329	10240	22900
9312	5156	9509	5330	10241	22902
9313	5156.5	9600	5350	10242	22903
9314	5156.6	9601	5351	10243	22904
9315	5157	9602	5352	10260	22930
9316	5157.2	9603	5353	10261	22930.5
9317	5157.5	9604	5354	10262	22932
9318	5157.6	9605	5355	10263	22932.5
9319	5158	9606	5357	10264	22933
9320	5159	9607	5358	10265	22934
9321	5160	10000	22000	10266	22935
9322	5161	10001	22002	10300	23100
9323	5162	10002	22003	10301	23101
9340	5200	10003	22004	10302	23102
9341	5200.1	10004	22005	10303	23103
9342	5201	10100	22600	10304	23104
9360	5210	10101	22601	10305	23105
9380	5215	10102	22602	10306	23106
9400	5300	10103	22603	10307	23107
9401	5301	10200	22806	10308	23108
9402	5302	10201	22807	10309	23109
9403	5303	10202	22808	10310	23110
9404	5304	10220	22836	10311	23111
9405	5305	10221	22837	10312	23112
9500	5321	10222	22838	10400	23300
9501	5322	10223	22839	10401	23301
9502	5323	10224	22840	10402	23301.5

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
10403	23302	10516	23521.5	10548	23551
10404	23302.1	10517	23523	10549	23552
10405	14009	10518	23523.5	10550	23553
10406	23302.3	10519	23523.7	10551	23554
10407	23302.5	10520	23524	10552	23554.5
10408	23303	10521	23525	10553	23555
10409	23304	10522	23526	10554	23556
10410	23305	10523	23526.5	10555	23557
10411	23306	10524	23527	10556	23558
10412	23307	10525	23527.5	10600	24000
10413	23308	10526	23529	10601	24001
10414	23309	10527	23529.5	10602	24002
10415	23310	10528	23530	10603	24005
10416	23311	10529	23530.5	10700	2651
10417	23312	10530	23531	10701	2652
10418	23314	10531	23531.5	10702	7200
10500	23503	10532	23532	10703	7200.5
10501	23501	10533	23533	10704	7201
10502	23502	10534	23534	10705	7202
10503	23502.5	10535	23535	10706	7203
10504	23504	10536	23536	10707	7204
10505	23506	10537	23537	10720	25001
10506	23507	10538	23538	11000	27000
10507	23508	10539	23539	11001	27001
10508	23510	10540	23540.5	11002	27002
10509	23510.5	10541	23541	11003	27003
10510	23512	10542	23542	11004	27005
10511	23512.2	10543	23543	11005	27006
10512	23512.6	10544	23544	11006	27007
10513	23512.12	10545	23547	11007	27008
10514	23513	10546	23549	11020	27020
10515	23520	10547	23550	11021	27021

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
11022	27022	11303	27304	12107	17050
11023	27023	11320	27310	12108	22801
11024	27024	11321	27311	12109	22830
11040	27030	11322	27312	12110	22831
11041	27031	11323	27313	12111	22832
11042	27031.5	11324	27315	12112	22833
11043	27032	11325	27316	12113	22834
11044	27033	11326	27316.1	12114	22835
11045	27035	11327	27317	12115	23511
11046	27036	11328	27320	12116	23521
11047	27037	11329	27321	12117	23540
11100	27100	11360	27330	12118	24003
11101	27101	11361	27331	12200	1500
11102	27102	11362	27332	12220	1501
11103	27103	11363	27333	12221	1511
11104	27104	11364	27334	12222	1513
11200	27200	11380	27340	12223	1505
11201	27201	11381	27341	12224	1508
11220	27210	11382	27342	12225	1510
11221	27211	11383	27343	12226	1506
11222	27212	11384	27344	12227	1509
11223	27213	11385	27345	12228	1507
11224	27214	11386	27346	12229	1644
11225	27215	12000	2553	12240	1508.5
11226	27216	12001	2653	12241	22030
11227	27217	12100	6461	12260	1503
11240	27230	12101	6462	12261	1514
11241	27230.5	12102	6463	12262	1513.1
11242	27231	12103	1642	12280	1638.5
11300	27301	12104	1642.9	12281	1650
11301	27302	12105	1643	12282	1504.5
11302	27303	12106	1643.3	12283	1504

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
12284	1504.6	12329	22804	13113	10217.5
12285	1638.7	12330	22805	13114	10217.7
12286	23528	12350	15200	13115	10218
12300	1637.5	12351	15201	13116	10219
12301	1630	12352	15202	13117	10219.5
12302	1633	12353	15203	13118	10231
12303	1635	12354	15204	13119	10235
12304	1631	12355	15205	13120	10236
12305	1632	12356	15206	13121	24004
12306	1639	12357	15207	13200	10006
12307	1641	13000	10005	13201	10232
12308	1634	13001	10000 [3]	13202	10215
12309	1640	13001	10000 [4]	13203	10203
12310	1653	13002	10001	13204	10204
12311	1654	13003	10001.5	13205	10205
12312	1655	13004	10002	13206	10206
12313	1649	13005	10002.5	13207	10207
12314	1651	13006	10003	13208	10208
12315	1652	13007	10004	13209	10208.5
12316	1646	13100	10200	13210	10220
12317	1647	13101	10016	13211	10221
12318	1642.3	13102	10200.5	13212	10222
12319	1645	13103	10201	13213	10223
12320	1636	13104	10209	13214	10224
12321	1637	13105	10210	13215	10225
12322	22050	13106	10210.5	13216	10226
12323	22051	13107	10211	13217	10227
12324	22052	13108	10212	13219	10014
12325	1515	13109	10213	13220	10233
12326	1638	13110	10214	13230	10230
12327	1648	13111	10216	13231	10229
12328	22802	13112	10217		

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
13232	10230.1	13304	10010.2	14200	14202
13233	10234	13305	10010.5	14201	14203
13240	10320	13306	10011	14202	14204
13241	10321	13307	10012	14203	14205.5
13242	10322	13308	10012.1	14210	14200
13243	10323	13309	10012.3	14211	14201
13244	10324	13310	10012.5	14212	14206
13245	10325	13311	10012.7	14213	14207
13246	10326	13312	10013	14214	14208
13247	10327	13313	10013.5	14215	14209
13260	10333	13314	10015	14216	14211
13261	10334	13315	10017	14217	14212
13262	10335	13316	10307.5	14218	14213
13263	10336	13317	10324.5	14219	14214
13264	10337	14000	14350	14220	14215
13265	10338	14001	14351	14221	14400
13266	10339	14002	14352	14222	14400.1
13267	10340	14003	14354	14223	14401
13280	10301	14100	14000	14224	14402
13281	10302	14101	14001	14225	14403
13282	10302.5	14102	14002	14226	14404
13283	10303	14103	14003	14227	14405
13284	10304	14104	14004	14240	14216
13285	10305	14105	14005	14241	14217
13286	10306	14106	14005.4	14242	14218
13287	10307	14107	14005.5	14243	14219
13288	10308	14108	14005.6	14244	14220
13289	10309	14109	14006	14245	14221
13300	10007	14110	14007	14246	14222
13301	10008	14111	14008	14247	14223
13302	10009	14112	15209	14248	14224
13303	10010	14113	15210	14249	14225

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
14250	14226	14298	14252	15054	17004
14251	14227	14299	14255	15055	17005
14252	14228	14310	14253	15056	17006
14253	14229	14320	14210	15057	17007
14270	15220	14321	14238	15058	17008
14271	15221	14400	14300	15059	17009
14272	15222	14401	14301	15060	17010
14273	15223	14402	14302	15061	17011
14274	15224	14403	14303	15062	17012
14275	15225	14404	14304	15063	17013
14276	15226	14405	14305	15064	17014
14277	15227	14406	14306	15080	17020
14278	14230	14420	15240	15081	17021
14279	14231	14421	15241	15082	17022
14280	14232	14422	15242	15083	17024
14281	14233	14423	15243	15084	17025
14282	14234	15000	1400	15085	17026
14283	14236	15001	1401	15100	17030
14284	14237	15002	1402	15101	17031
14285	14239	15003	1403	15102	17032
14286	14240	15004	1404	15103	17033
14287	14241	15005	1405	15120	17040
14288	14242	15006	1407	15121	17041
14289	14427	15007	1408	15122	17042
14290	14243	15008	1409	15150	17052
14291	14244	15009	1409.5	15151	17053
14292	14245	15010	1410	15152	17054
14293	14246	15011	1411	15153	17055
14294	14247	15050	17000	15154	17056
14295	14249	15051	17001	15155	17057
14296	14250	15052	17002	15156	17058
14297	14251	15053	17003	15157	17059

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
15200	17060	15309	17089	15624	17163
15201	17061	15310	17090	15625	17164
15202	17063	15311	17091	15626	17165
15250	17070	15350	17100	15627	17166
15251	17071	15351	17101	15628	17167
15260	15260	15352	17102	15629	17168
15261	15261	15353	17103	15630	17169
15262	15262	15400	17111	15631	17170
15263	15263	15401	17112	15632	17171
15264	15264	15402	17113	15633	17172
15265	15265	15450	54	15634	17173
15266	15266	15451	6610	15640	17180
15267	15267	15452	17110	15641	17182
15268	15268	15460	8874	15642	17183
15269	15269	15470	9374	15645	17190
15270	15270	15480	9724	15650	20500
15271	15271	15490	9783	15651	20501
15272	15272	15500	17120	15652	20502
15273	15272.5	15501	17121	15653	20502.5
15274	15273	15502	17122	15654	20503
15275	15274	15503	25050	15670	20530
15276	15275	15504	17123	15671	20531
15277	15276	15505	17124	15672	20532
15300	17080	15550	17130	15673	20533
15301	17081	15551	17134	16000	20089
15302	17082	15552	17136	16001	20000
15303	17083	15600	17140	16002	20001
15304	17084	15610	17150	16003	20002
15305	17085	15620	17160	16100	20021
15306	17086	15621	17160.5	16101	20300
15307	17087	15622	17161	16200	20020
15308	17088	15623	17162	16201	20022

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
16202	20023	16602	20085	17306	14831
16203	20024	16603	20086	17400	14900
16300	20304	16620	20337	17500	14950
16400	20050	16640	20369	17501	14960
16401	20051	16641	20370	17502	14970
16402	20052	16642	20371	17503	14971
16403	20053	16643	20372	17504	14980
16404	20302	16700	20110	17505	14981
16420	20301	16701	20111	17506	14990
16421	20303	16702	20116	18000	29100
16440	20330	16703	20087	18001	29101
16441	20331	16720	20338	18002	29102
16442	20332	16740	20373	18100	29200
16443	20333	16741	20375	18101	29200.5
16444	20334	16742	20376	18102	29201
16460	20360	16800	20112	18103	29202
16461	20361	16801	20113	18104	29203
16462	20362	16802	20114	18105	29203.7
16463	20363	16803	20305	18106	29204
16464	20364	16900	20115	18107	29205
16465	20366	16920	20339	18108	29206
16466	20367	16940	20374	18109	29207
16467	20368	17000	14500	18200	29300
16500	20080	17001	14510	18201	29301
16501	20081	17100	14600	18202	29302
16502	20082	17200	14700	18203	29303
16503	20088	17300	14800	18204	29204
16520	20335	17301	14810	18205	29305
16521	20336	17302	14811	18300	29413
16540	20365	17303	14820	18301	29414
16600	20083	17304	14821	18302	29415
16601	20084	17305	14830	18303	29416

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
18310	29420	18561	29641	18640	29760
18311	29421	18562	29643	18650	29770
18320	29430	18563	29644	18660	29780
18340	29440	18564	29645	18661	29781
18350	29450	18565	29645.1	18670	29790
18351	29451	18566	29646	18671	29791
18360	29460	18567	29647	18680	29795
18361	29462	18568	29648	18700	29800
18370	29470	18569	29649	19001	15020
18371	29473	18570	29650	19002	15021
18380	29480	18571	29651	19003	15022
18390	29490	18572	29652	19004	15121
18400	29500	18573	29653	19005	15025
18401	29501	18574	29654	19100	15100
18402	29505	18575	29655	19101	15102
18403	29506	18576	29656	19102	15103
18500	29610	18577	29657	19103	15105
18501	29611	18578	29658	19200	15110
18502	29612	18600	29720	19201	15111
18520	29620	18601	29721	19202	15112
18521	29621	18602	29722	19203	15101
18522	29622	18603	29723	19204	15104
18523	29623	18610	29730	19205	15113
18524	29624	18611	29731	19206	15114
18540	29630	18612	29732	19207	15115
18541	29630.5	18613	29733	19208	15116
18542	29631	18614	29734	19209	15117
18543	29632	18620	29740	19210	15023
18544	29634	18621	29741	19211	15024
18545	29635	18622	29742	19212	15026
18546	29636	18630	29750	19213	15118
18560	29640	18631	29751	19220	15119

See footnotes at conclusion of this table.

DISPOSITION TABLE—1976 CODE

NEW	OLD	NEW	OLD	NEW	OLD
19221	15120	20003	11703	rep.	30011
19222	15122	20004	11704	rep.	30020
19300	15300	20005	11705	rep.	30020.5
19301	15301	20006	11706	rep.	30021
19302	15302	20007	11707	rep.	30022
19303	15303	20008	11708	rep.	30030
19304	15304	20009	11709	rep.	30031
19320	15320	20100	12200	rep.	30032
19321	15321	20200	12300	rep.	30040
19322	15322	20201	12301	rep.	30041
19323	15342	20202	12302	rep.	30042
19340	15340	20203	12303	rep.	30043
19341	15341	20300	12400	rep.	30044
19360	15343	20301	12401	21500	35000
19361	15344	20400	12500	21501	35001
19362	15345	20420	12510	21502	35002
19363	15346		12513	21503	35003
19370	15363	20440	12520	21504	35004
19371	15365	20441	12522	21505	35005
19380	15360	20442	12523	21506	35006
19381	15361	20443	12524	21600	35100
19382	15362	20444	12525	21601	35101
19383	15364	20500	12527	21602	35102
19384	15367	20501	12528	21603	35103
19385	15368	20502	12530	21604	35104
19386	15369	21000	51	21605	35105
20000	11700	21001	30000	21606	35106
20001	11701	21002	30001	21620	35150
20002	11702	rep.	30010		

[1] Repeal operative January 1, 1998.
[2] Operative January 1, 1998.
[3] Repeal operative January 1, 1996.
[4] Operative January 1, 1996.
[5] Repeal operative January 1, 1995.
[6] Repeal operative January 1, 1999.

SEC. 7. Section 6 of this act shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

CHAPTER 921

An act to amend Sections 56366, 56366.2, 56602, 56711, 56728.7, 56732, 56740, 56741, 56743, and 56775 of the Education Code, relating to special education.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 56366 of the Education Code is amended to read:

56366. It is the intent of the Legislature that the role of the nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to districts, special education local plan areas, county offices, and parents.

(a) The master contract for nonpublic, nonsectarian school or agency services shall be developed in accordance with the following provisions:

(1) The master contract shall specify the general administrative and financial agreements between the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office to provide the special education and designated instruction and services, as well as transportation specified in the pupil's individualized education program on forms provided by the superintendent in January of each year for the following fiscal year. The administrative provisions of the contract also shall include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting district, special education local plan area, or county office to ensure that appropriate high school graduation credit is received by the pupil. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.

(2) The master contract shall include an individual services agreement on forms provided by the superintendent in January of each year for the following fiscal year for each pupil placed by a district, special education local plan area, or county office that will be negotiated for the length of time for which nonpublic, nonsectarian school or agency special education and designated instruction and services are specified in the pupil's individualized education program.

Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to the pupil's individualized education program.

At any time during the term of the contract or individual services agreement, the parent; nonpublic, nonsectarian school or agency; or district, special education local plan area, or county office may request a review of the pupil's individualized education program by the individualized education program team. Changes in the administrative or financial agreements of the master contract that do not alter the individual services agreement that outlines each pupil's educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office.

(3) The master contract or individual services agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

(4) The nonpublic, nonsectarian school or agency shall provide all services specified in the individualized education program, unless the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office agree otherwise in the contract.

(5) Related services provided pursuant to a nonpublic, nonsectarian agency master contract shall only be provided during the period of the child's regular or extended school year program, or both, unless otherwise specified by the pupil's individualized education program.

(6) The nonpublic, nonsectarian school or agency shall report attendance of pupils receiving special education and designated instruction and services as defined by Section 46307 for purposes of submitting a warrant for tuition to each contracting district, special education local plan area, or county office on forms developed by the superintendent.

(b) The master contract or individual services agreement shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by a district, special education local plan area, or county office for pupils enrolled in the nonpublic, nonsectarian school or agency unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency.

The superintendent shall withhold 20 percent of the amount apportioned to a school district or county office for costs related to the provision of nonpublic, nonsectarian school or agency placements if the superintendent finds that the local education agency is in noncompliance with this subdivision. This amount shall be withheld from the apportionments in the fiscal year following the superintendent's finding of noncompliance. The superintendent

shall take other appropriate actions to prevent noncompliant practices from occurring and report to the Legislature on those actions.

(c) (1) If the pupil is enrolled in the nonpublic, nonsectarian school or agency with the approval of the district, special education local plan area, or county office prior to agreement to a contract or individual services agreement, the district, special education local plan area, or county office shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

(2) If after 60 days the master contract or individual services agreement has not been finalized as prescribed in paragraph (1) of subdivision (a), either party may appeal to the county superintendent of schools, if the county superintendent is not participating in the local plan involved in the nonpublic, nonsectarian school or agency contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the county superintendent or the superintendent, or his or her designee, shall mediate the formulation of a contract which shall be binding upon both parties.

(d) (1) No master contract for special education and related services provided by a nonpublic, nonsectarian school or agency shall be authorized under this part unless the school or agency has been certified as meeting those standards relating to the required special education and specified related services and facilities for individuals with exceptional needs. The certification shall result in the school's or agency's receiving approval to educate pupils under this part for a period no longer than four years from the date of the approval. The procedures, methods, and areas of certification, including information required for purposes of the application specified in subdivision (a) of Section 56366.1, shall be established by rules and regulations issued by the board that shall include, but not be limited to, procedures for conducting onsite reviews of the nonpublic, nonsectarian school or agency program and include provisions specific to the provision of special education and related services to individuals with exceptional needs from birth to preschool. In addition to those standards adopted by the board, the school or agency shall meet all applicable standards relating to fire, health, sanitation, and building safety.

(e) The school or agency shall be charged a reasonable fee for certification. The superintendent may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for revenue limits of unified school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the district revenue limit for inflation purposes. For purposes of this section, the base fee shall be

the following:

(A) 1–5 pupils — $150.

(B) 6–10 pupils — $250.

(C) 11–24 pupils — $500.

(D) 25–75 pupils — $750.

(E) 76 pupils and over — $1,000.

The school or agency shall pay this fee when it applies for certification and when it updates its application for annual review by the superintendent. The superintendent shall use these fees to conduct onsite reviews, which may include field experts. No fee shall be refunded if the application is withdrawn or is denied by the superintendent.

(f) (1) Notwithstanding any other provision of law, only those nonpublic, nonsectarian schools and agencies that provide special education and designated instruction and services utilizing staff who hold, or are receiving training under the supervision of staff who hold, a current valid California credential or license in the service rendered shall be eligible to receive certification. Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified.

(2) Nothing in this subdivision restricts student teachers, interns, or other staff who are enrolled in training programs that lead to a license or credential that authorize the holder to render services to special education pupils and who are under the direct supervision of a staff member who holds a current valid California credential, license, or certificate of registration document.

(3) A nonpublic, nonsectarian school or agency that employs only persons who hold a valid California credential authorizing substitute teaching pursuant to Section 56060 shall not be certified. At least one full-time person with a current valid California credential, license, or certificate of registration in the area of service to be rendered, or a current valid credential, license, or certificate of registration for appropriate special education and related services rendered that is required in another state, shall be required for purposes of certification under subdivision (d).

(4) A nonpublic, nonsectarian school or agency that employs persons holding a valid emergency credential shall document efforts of recruiting appropriately credentialed, licensed, or registered personnel for the special education and related services rendered as a condition of renewing certification.

SEC. 2. Section 56366.2 of the Education Code is amended to read:

56366.2. (a) A district, special education local plan area, county office, nonpublic, nonsectarian school, or nonpublic, nonsectarian agency may petition the superintendent to waive one or more of the requirements under Sections 56365, 56366, 56366.3, 56366.6, and 56366.7. The petition shall state the reasons for the waiver request,

and shall include the following:

(1) Sufficient documentation to demonstrate that the waiver is necessary to the content and implementation of a specific pupil's individualized education program and the pupil's current placement.

(2) The period of time that the waiver will be effective during any one school year.

(3) Documentation and assurance that the waiver does not abrogate any right provided individuals with exceptional needs and their parents or guardians under state or federal law, and does not hinder the compliance of a district, special education local plan area, or county office with the Individual with Disabilities Education Act (20 U.S.C. Sec. 1400 and following) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 and following), and federal regulations relating thereto.

(b) No waiver shall be granted for reimbursement of those costs prohibited under Section 56740 or 56775 or certification pursuant to Section 56366.1 unless approved by the board pursuant to Section 56101.

(c) In submitting the annual report on waivers granted under Section 56101 and this section to the State Board of Education, the superintendent shall specify information related to the provision of special education and related services to individuals with exceptional needs through contracts with nonpublic, nonsectarian schools and agencies located in the state, nonpublic, nonsectarian school and agency placements in facilities located out of state, and the specific section waived pursuant to this section.

SEC. 3. Section 56602 of the Education Code is amended to read:

56602. In accordance with a program evaluation plan adopted pursuant to subdivision (e) of Section 56100, the superintendent shall submit to the board, the Legislature, and the Governor, an annual evaluation of the special education programs implemented under this part. This evaluation shall do all of the following:

(a) Utilize existing information sources including fiscal records, enrollment data, and other descriptive data, and program reviews to gather ongoing information regarding implementation of programs authorized by this chapter.

(b) Utilize existing information to the maximum extent feasible to conduct special evaluation studies of issues of statewide concern. The studies may include, but need not be limited to, all of the following:

(1) Pupil performance. The State Department of Education shall assist special education local plan areas in the development of models of pupil performance in order to determine the success or failure of special education programs and services. As appropriate, special education pupils and parents of special education pupils shall be involved in the development of these models.

(2) Placement of pupils in least restrictive environments.

(3) Degree to which services identified in individualized

education programs are provided.

(4) Parent, pupil, teacher, program specialist, resource specialist, and administrator attitudes toward services and processes provided.

(5) Program costs, including, but not limited to:

(A) Expenditures for instructional personnel services, support services, special transportation services, and regionalized services.

(B) Capital outlay costs at the district and school levels, and for special education local plan areas, county offices, state special schools, and nonpublic, nonsectarian schools.

(C) Funding sources at the district, special education local plan area, county office, state special school, nonpublic, nonsectarian school, and agency levels, including funding provided by state and local noneducational public agencies.

(c) Identify the numbers of individuals with exceptional needs, their racial and ethnic data, their classification by designated instructional services, resource specialist, special day class or center, nonpublic, nonsectarian schools, and agencies, including pupils referred to and placed in those programs by state and local noneducational public agencies, in accordance with criteria established by the board and consistent with federal reporting requirements.

(d) The State Department of Education shall, as part of the department's regular data collection process for special education programs, collect data on the types of agencies that provide designated instruction and services or related services that are contracted for by special education local plan areas or programs for the disabled operated by the state pursuant to Public Law 89-313, in order to determine the number of special education pupils who are enrolled in nonpublic, nonsectarian special education schools or who are receiving nonpublic, nonsectarian agency services.

SEC. 4. Section 56711 of the Education Code is amended to read:

56711. The county superintendent shall compute for each district and county office the sum of all the following:

(a) Instructional personnel services amount pursuant to Article 3 (commencing with Section 56720).

(b) Support services amount pursuant to Article 4 (commencing with Section 56730).

(c) Amount for pupils in nonpublic, nonsectarian schools and agencies pursuant to Article 5 (commencing with Section 56740).

(d) Amount for instructional time entitlement for special day classes under Sections 46200.5 and 46201.5.

SEC. 5. Section 56728.7 of the Education Code is amended to read:

56728.7. (a) The Superintendent of Public Instruction may conduct a pilot program for the 1992–93, 1993–94, 1994–95, 1995–96, and 1996–97 fiscal years to enable and encourage school districts and county offices of education, either individually or through special education local plan areas, to establish programs in public schools for individuals with exceptional needs who are currently placed in

nonpublic, nonsectarian schools and to develop plans for the return of these pupils to an appropriate public school program, with a view of determining whether these new programs can provide an effective mainstreaming education program in a less restrictive environment that is appropriate to each pupil's needs for services as specified in his or her written individualized education program. Services provided pursuant to this section to each pupil by an individualized education program, including, but not limited to, psychotherapy, mental health, residential, or other services provided under provisions of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, shall be continued unless otherwise agreed to by a review of the pupil's expanded individualized education program team. The superintendent shall select, for this purpose, no more than 10 school districts or county offices of education that are willing to participate in the pilot project, through an application process to be developed by the superintendent during the 1991–92 fiscal year in accordance with subdivision (c). A maximum of 200 pupils shall participate in the statewide pilot program at any given time. Of the 200 pupils, not more than 50 pupils shall be from any one school district, and no more than 15 pupils from any one school district shall be funded pursuant to Article 8.5 (commencing with Section 56775).

(b) In addition, the Superintendent of Public Instruction shall conduct a pilot program in San Mateo County and in the Contra Costa County special education local plan area for the 1993–94, 1994–95, 1995–96, and 1996–97 fiscal years to encourage and enable the San Mateo County Office of Education and the Contra Costa County special education local plan area to identify pupils who currently are placed into a nonpublic school program by San Mateo County school districts or Contra Costa County school districts, respectively, but are able to be returned to an appropriate public school program, and to identify seriously emotionally disturbed pupils who currently are in a public school program who are imminently at risk of placement in a nonpublic school program or another more restrictive setting. The purpose of each pilot program is to establish new public school programs that maintain an effective mainstreaming education program that is appropriate to each pupil's needs for the services specified in a pupil's individualized education program, and thereby avoid placing those pupils in a nonpublic school setting.

Services provided to a pupil pursuant to this section according to the pupils' individualized education program, including, but not limited to, psychotherapy, mental health, residential, or other services provided under the provisions of Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, shall be continued unless otherwise agreed to by a review of the pupil's expanded individualized education program team.

(c) The superintendent shall ensure that the local application to

participate in a pilot program pursuant to subdivision (a) describes the program and fiscal resources that it will use in implementing the pilot program, including, but not limited to, the establishment of the Local Pilot Program Advisory Committee and its implementing policies for the pilot program. The superintendent shall make every effort to ensure that the racial, ethnic, and socioeconomic composition of the Local Pilot Program Advisory Committee reflects the current racial, ethnic, and socioeconomic composition of the exceptional pupil population in the school districts in which the pilot programs are established.

In its preparation of the application for participation in the pilot program, the local education agency shall consult with the special education local plan area in which it is a member and describe the impact the pilot program would have on other programs and resources available within the special education local plan area.

In addition, the superintendent shall ensure that there is a sampling of multiple sizes of school districts and county offices of education, including special education local plan areas whose special education plan serves an average daily attendance of 30,000 or more. The sampling shall also include all of the following:

(1) Local education agencies in urban and rural settings.

(2) Local education agencies serving large populations of individuals with exceptional needs from low-income and ethnic and linguistic minority families.

(3) Local education agencies impacted by a large number of individuals with exceptional needs who are served by nonpublic, nonsectarian schools and agencies.

(4) Local education agencies impacted by a large number of individuals with exceptional needs who reside in a foster family home, licensed children's institution, hospital, or other similar medical facility and who are served by nonpublic, nonsectarian schools or agencies.

(d) Consistent with Section 56366 and other provisions of law, it is the intent of the Legislature that programs developed pursuant to this section shall ensure the participation of, and coordination with, local contracted nonpublic, nonsectarian schools through the establishment of a Local Pilot Program Advisory Committee in order to develop, monitor, and evaluate policies to ensure that pupils' placements are changed when adequate progress is made and readiness for placement in a less restrictive environment located in a public school is achieved.

(1) The Local Pilot Program Advisory Committee shall be comprised of representatives of local public and contracted nonpublic school programs, parents, and other local public agencies providing services pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. Representatives of each Local Pilot Program Advisory Committee shall include two representatives of local contracted nonpublic schools designated by the California Association of Private

Specialized Education and Services without regard to membership, one of whom shall be a representative of a licensed children's institution when it is determined that pupils in a licensed children's institution in a nonpublic school program placement may be considered for placement in a mainstreaming educational program, a representative of the special education local plan area administrative unit, a teacher representative of a local public school participating in the pilot program, a parent representative of the local community advisory committee, pursuant to the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 and following), a representative of a parent advocate, a representative of the local mental health advisory board, and a representative of each local public agency providing services to exceptional pupils within the special education local plan area under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(2) Notwithstanding any other provision of law, the Local Pilot Program Advisory Committee shall advise on the development, monitoring, and evaluation of policies and procedures that are necessary to implement the pilot program. The advisement shall include, but not necessarily be limited to, the following subjects:

(A) Pupil behaviors.

(B) Pupil achievement and classroom performance reports.

(C) Curriculum and class size.

(D) Adequate support services.

(E) Personnel qualifications.

(3) The Local Pilot Program Advisory Committee shall also advise on development procedures and criteria for evaluating the effectiveness of the pilot program pursuant to paragraph (1) of subdivision (h) and shall annually submit a written evaluation of the pilot program to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall evaluate selected pilot programs, based on the report of each advisory committee of how goals for an effective mainstream education program have been met in accordance with pupils' individualized education programs.

(e) (1) Notwithstanding any other provision of law, in the 1992–93, 1993–94, 1994–95, 1995–96, and 1996–97 fiscal years for pilot programs operated pursuant to subdivision (a) and in the 1993–94, 1994–95, 1995–96, and 1996–97 fiscal years for the pilot programs operated pursuant to subdivision (b), the Superintendent of Public Instruction shall apportion to each of the school districts or county offices of education selected pursuant to subdivision (a), and to the San Mateo County Office of Education and the Contra Costa County special education local plan area in addition to any funds to which that district or county office is entitled under this chapter, an apportionment for each pupil who is returned by that district or county office from a nonpublic school program pursuant to this section. The apportionment shall be equal to the average amount apportioned to the special education local plan area in which that district or county office is located for pupils under Sections 56740 and

56775 in the 1991–92 fiscal year for pilot programs operated pursuant to subdivision (a), and the average amount apportioned to the San Mateo County special education local plan area and the Contra Costa County special education local plan area, respectively, under those sections in the 1992–93 fiscal year for the pilot programs operated pursuant to subdivision (b), excluding the costs of room and board as identified by Section 56741. The costs resulting to that district or county office from the placement of any pupil in a public program operated by the district or county office pursuant to this section, including any residual nonpublic school costs for pupils transitioning into the public program, shall be funded from this apportionment. No school district or county office of education shall be entitled to receive any funding under Section 56740 or 56775 in any fiscal year based on the enrollment of any pupil for which that district or county office receives funding in that fiscal year under this subdivision.

(2) The apportionment authorized under paragraph (1) may only be provided for pupils who were enrolled in a nonpublic, nonsectarian school in the fiscal year prior to the new year in which the pupil is returned to public school placement. Each pupil's placement shall be changed, in accordance with this part, to a public school special education program as described under this section no later than June 30, 1996, for pupils in a pilot program operated pursuant to subdivision (a) or subdivision (b).

(3) A school district or county office of education is not entitled to receive both a nonpublic school entitlement under Section 56740 or 56775, and a pilot program apportionment as authorized by paragraph (1) in any fiscal year for pupils' participation in the statewide pilot project.

(4) If a participating pupil leaves the pilot program due to age or achievement, a change of district of residence, or if it is subsequently determined by an individualized education program team that a pupil's programmatic needs cannot be successfully met in the mainstream education program, another pupil may replace that pupil if the new pupil qualifies under paragraph (2). If a pupil leaves the pilot program during any fiscal year for any of the above reasons, and the pupil cannot be replaced by another pupil who qualifies under paragraph (2), the school district or county office shall provide an adjusted full-time equivalent number of pupils who actually participated in the statewide pilot program for each fiscal year to the Superintendent of Public Instruction by no later than November 30 following each fiscal year of the pilot project. The adjusted full-time equivalent number of pupils shall be used to compute an appropriate reduction in the preceding fiscal year's annualized pilot program apportionment authorized under paragraph (1) before the adjustments, if any, as specified in paragraph (7) are performed.

(5) If a nonpublic school program is resumed for a pupil due to an unsuccessful transition to a mainstream education program, the district or county office may resume the reporting of nonpublic school costs under Sections 56740 and 56775 if the Superintendent of

Public Instruction has been notified as specified in paragraph (4).

(6) For a pilot program operated pursuant to subdivision (a), the apportionment authorized under this section shall include the costs of one certificated person who shall serve as a mainstream education liaison. The workload of a mainstream education liaison shall not exceed a full-time equivalent per pupil caseload of 20.

(7) The apportionment authorized under paragraph (1) shall be used solely for purposes of providing special education programs. Any excess apportionment remaining from the costs of operating pilot programs pursuant to this section shall be adjusted from the subsequent year's apportionment which the district or county office of education may be eligible to receive. The amount of excess pilot program apportionment shall be reported to the Superintendent of Public Instruction by not later than November 30 following each fiscal year of the pilot project.

(f) Notwithstanding any other provision of law, pilot project pupils shall not be included in the calculation of the number of instructional personnel services units to which a school district or county office is entitled, in the calculation of pupil service ratio as provided in Section 56760, or in the enrollment used to compute extended year entitlements pursuant to Section 56726.

(g) This section shall not be construed to authorize any increase in state apportionments for special education to which a participating school district or county office of education is entitled under this chapter.

(h) The Superintendent of Public Instruction shall evaluate the pilot program or programs operated pursuant to criteria developed in consultation with the participating school districts or county offices of education and a statewide representative of contracted nonpublic, nonsectarian schools. The evaluation shall include, but not necessarily be limited to, descriptive information and supporting data provided by the Local Pilot Program Advisory Committee and others as appropriate in determining whether the program operated by each participating district or county office accomplished each of the following objectives:

(A) Provided pupils who were formerly placed in nonpublic, nonsectarian schools with an appropriate and effective mainstreaming education program which is consistent with each pupil's needs as specified in his or her individualized education program and located in a less restrictive environment in a public school.

(B) Served those pupils in age-appropriate, less restrictive environments, including interaction or receiving instruction with their nonhandicapped peers.

(C) Provided pupils who were identified as being imminently at risk of nonpublic school placement with an appropriate and effective mainstreaming education program that is consistent with each pupil's needs, as specified in his or her individualized education program.

(D) Provided programs and services located in a public school to those pupils at a cost to the public that was no greater than that incurred in the nonpublic, nonsectarian school setting, from which pupils are returned and those identified as being at risk of placement under subparagraph (C), including the public program costs for instruction, designated instruction and services, direct support services, indirect support services, and the costs of services provided by local public agencies under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. It is the intent of the Legislature that the comparison of the costs for services provided by public and nonpublic school programs be based on uniform program cost accounting procedures prescribed by the Superintendent of Public Instruction pursuant to Section 56730.5.

(i) The superintendent shall report the results of the evaluation to the Legislature no later than January 1, 1998.

(j) This section shall remain in effect only until January 1, 1999, and as of that date is repealed.

SEC. 6. Section 56732 of the Education Code is amended to read:

56732. Each district and county office shall submit to the county superintendent the adjusted operating costs for special education in fiscal year 1979–80. Adjusted operating costs shall be computed by reducing the total cost for special education reported by the district or county superintendent for fiscal year 1979–80 less the costs of special transportation, services provided by nonpublic, nonsectarian schools and agencies, tuition paid to other school districts or county offices for special education programs and services during the 1979–80 fiscal year but not paid during the 1980–81 fiscal year, pregnant minors programs, programs to provide instruction in the home or hospital for pupils with temporary physical disabilities, and, if appropriate, regionalized services, as enumerated in subdivision (c) of Section 56220.

The amount included in the total cost of special education for indirect support costs shall not exceed 4 percent of the sum of direct costs plus direct support costs.

SEC. 7. Section 56740 of the Education Code is amended to read:

56740. (a) The superintendent shall apportion to each district and county office 70 percent of the cost of tuition in excess of the revenue limit and applicable federal funds for pupils enrolled in nonpublic, nonsectarian schools and agencies pursuant to Sections 56365 and 56366.

(b) The superintendent also may apportion to each nonpublic, nonsectarian school providing special education and designated instruction and services to individuals with exceptional needs an amount for pupils counted under the federal program of assistance for state operated or state supported programs for children with disabilities (P.L. 89-313, Sec. 6).

(c) The cost of master contracts with nonpublic, nonsectarian schools and agencies that a district or county office of education reports under this section shall not include any of the following costs

that a district, county office, or special education local plan area may incur:

(1) Administrative or indirect costs for the local education agency.

(2) Direct support costs for the local education agency.

(3) Transportation costs provided either directly, or through a nonpublic, nonsectarian school or agency contract for use of services or equipment owned, leased, or contracted, by a district, special education local plan area, or county office for any pupils enrolled in nonpublic, nonsectarian schools or agencies, unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency pursuant to subdivisions (a) and (b) of Section 56366.

(4) Costs for services routinely provided by the district, special education local plan area, or county office including the following, unless the board grants a waiver under Section 56101:

(A) School psychologist services other than those described in Sections 56324 and 56363 and included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(B) School nurse services other than those described in Sections 49423.5, 56324, and 56363 and included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(C) Language, speech, and hearing services other than those included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(D) Modified, specialized, or adapted physical education services other than those included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(E) Other services not specified by a pupil's individualized education program or funded by the state on a caseload basis.

(5) Costs for nonspecial education programs or settings, including those provided for individuals with exceptional needs between the ages of birth and five years, inclusive, pursuant to Sections 56431 and 56441.8.

(6) Costs for nonpublic, nonsectarian school or agency placements outside of the state unless the board has granted a waiver pursuant to subdivisions (e) and (f) of Section 56365.

(7) Costs for related nonpublic, nonsectarian school pupil assessments by a school psychologist or school nurse pursuant to Sections 56320 and 56324.

(8) Costs for services that the nonpublic, nonsectarian school or agency is not certified to provide.

(9) Costs for services provided by personnel who do not meet the requirements specified in subdivision (e) of Section 56366.

(10) Costs for services provided by public school employees.

(d) A nonpublic, nonsectarian school or agency shall not claim and is not entitled to receive reimbursement for attendance unless the site where the pupil is receiving special education or designated

instruction and services is certified.

SEC. 8. Section 56741 of the Education Code is amended to read:

56741. As a condition to receiving an apportionment pursuant to Sections 56740 and 56775, together with other financial reports required by the superintendent for purposes of apportioning funds, a district or county office shall submit an annual report to the superintendent in April of each year pursuant to Section 56728.5, on forms provided by the superintendent for that purpose, which shall include all of the following information:

(a) The individual contracted program placement costs of providing special education, transportation, residential, and designated instruction and services to individuals with exceptional needs placed in nonpublic, nonsectarian schools and agencies pursuant to Sections 56365 and 56366.

(b) The individual program placement costs specified in subdivision (a) shall be listed according to the placement categories of individuals with exceptional needs, including, but not limited to, all of the following categories:

(1) Full-day nonpublic, nonsectarian school placement.

(2) Partial-day nonpublic, nonsectarian school placement.

(3) Residential nonpublic, nonsectarian school and agency placement within the state.

(4) Residential nonpublic, nonsectarian school and agency placement outside the state.

(5) Full-day nonpublic, nonsectarian agency services.

(6) Partial-day nonpublic, nonsectarian agency services.

SEC. 9. Section 56743 of the Education Code is amended to read:

56743. Notwithstanding Section 56740 and 56775, the Superintendent of Public Instruction shall not apportion additional funds to districts or county offices on behalf of placements and services in nonpublic, nonsectarian schools and agencies reported by districts and county offices pursuant to Section 56742 if the increase claimed from one year to the next exceeds the percentage increase specified by Section 56723, or an in-lieu percentage specified by the Budget Act, unless the superintendent makes a specific and individual finding that a greater increase is warranted.

SEC. 10. Section 56775 of the Education Code is amended to read:

56775. (a) For the 1980–81 fiscal year and each fiscal year thereafter, the superintendent shall apportion to each district and county superintendent providing programs pursuant to Article 5 (commencing with Section 56155) of Chapter 2 an amount equal to the difference, if any, between (1) the costs of master contracts with nonpublic, nonsectarian schools and agencies to provide special education instruction, designated instruction and services, or both, to pupils in licensed children's institutions, foster family homes, residential medical facilities, and other similar facilities funded under this chapter, and (2) the state and federal income received by the district or county superintendent for providing these programs. The sum of the excess cost, plus any state or federal income for these

programs, shall not exceed the cost of master contracts with nonpublic, nonsectarian schools and agencies to provide special education and designated instruction and services for these pupils, as determined by the superintendent.

(b) The cost of contracts with nonpublic, nonsectarian schools and agencies that a district or county office of education reports under this section shall not include any of the following costs that a district, county office, or special education local plan area may incur:

(1) Administrative or indirect costs for the local education agency.

(2) Direct support costs for the local education agency.

(3) Transportation costs provided either directly, or through a nonpublic, nonsectarian school or agency master contract or individual services agreement for use of services or equipment owned, leased, or contracted, by a district, special education local plan area, or county office for any pupils enrolled in nonpublic, nonsectarian school or agencies, unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency pursuant to subdivisions (a) and (b) of Section 56366.

(4) Costs for services routinely provided by the district or county office including the following, unless the board grants a waiver under 56101:

(A) School psychologist services other than those described in Sections 56324 and 56363 and included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(B) School nurse services other than those described in Sections 49423.5, 56324, and 56363 and included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(C) Language, speech, and hearing services other than those included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(D) Modified, specialized, or adapted physical education services other than those included in a master contract and individual services agreement under subdivision (a) of Section 56366.

(E) Other services not specified by a pupil's individualized education program or funded by the state on a caseload basis.

(5) Costs for nonspecial education programs or settings, including those provided for individuals with exceptional needs between the ages of birth and five years, inclusive, pursuant to Sections 56431 and 56441.8.

(6) Costs for nonpublic, nonsectarian school or agency placements outside of the state unless the board has granted a waiver pursuant to subdivisions (e) and (f) of Section 56365.

(7) Costs for related nonpublic, nonsectarian school pupil assessments by a school psychologist or school nurse pursuant to Sections 56320 and 56324.

(8) Costs for services that the nonpublic, nonsectarian school or

agency is not certified to provide.

(9) Costs for services provided by personnel who do not meet the requirements specified in subdivision (e) of Section 56366.

(10) Costs for services provided by public school employees.

(d) A nonpublic, nonsectarian school or agency shall not claim and is not entitled to receive reimbursement for attendance unless the site where the pupil is receiving special education or designated instruction and services is certified.

SEC. 11. The Legislature hereby declares that Sections 3061 to 3067, inclusive, of Title 5 of the California Code of Regulations are void and without effect on or after January 1, 1995.

SEC. 12. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 922

An act to amend Sections 2550, 2551, 2557, 8447.5, 8911, 11005, 19175, 33472, 39310, 39312, 41610, 41963, 41964, 42238, 42238.9, 42246, 42247.3, 42268, 42289, 44104, 44225.5, 44258.15, 44276, 44276.1, 44276.6, 44301, 44327, 44834.2, 44931, 44959, 44966, 45344.5, 46142, 48232, 49068.5, 49427, 49582, 51215, 51217, 51229, 51264, 51266, 51749.3, 51900, 52106, 52164.6, 52169, 52171, 52171.6, 52177, 52321, 52324.6, 52506, 52523, 52902, 52903, 54442, 54652, 54734, 56446, 56830, 58601, 58702, 58802, and 64100 of, to repeal Sections 1916, 8212.5, 8272, 8273, 8433, 8446, 8479, 8609, 8616, 8632, 8850, 8851, 8853, 8854, 8855, 8958, 11004, 11400, 11402, 14022.4, 18490, 18491, 18492, 19172, 19471, 19472, 19474, 19657, 32377, 33390, 37304, 37705, 39181, 39234, 39311.5, 39619.4, 39619.8, 41203.2, 41408, 41853.3, 41853.5, 41961, 42122.5, 42127.10, 42238.7, 42238.10, 42248, 42251, 42288, 42950.1, 43000, 43002, 44102, 44227.4, 44235.2, 44255, 44276.5, 44329, 44492.5, 44764, 44775, 44904, 44905, 45023.4, 45037, 45164, 46151, 48644.3, 49150.5, 49583, 51219.5, 51267, 51757, 51900.5, 52134, 52178.1, 52178.4, 52213, 52333, 52335.25, 52616.5, 52909, 52960, 52963, 52983, 54658, 54753, 54753.1, 54761, 56441.12, 56444, 56522, 56880, 58408, 58410, 58411, 58412, 58560, 58562, 58701, 60247.5, 60701, and 62007.5 of, and to repeal Chapter 6.8 (commencing with Section 8930) of Part 6 of, and Article 10 (commencing with Section 60730) of Part 33 of, the Education Code,

to amend Section 7907 of the Government Code, and to repeal Section 11335 of the Welfare and Institutions Code, relating to education.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 1916 of the Education Code is repealed.

SEC. 2. Section 2550 of the Education Code is amended to read:

2550. For each fiscal year, the Superintendent of Public Instruction shall make the following computations to determine the amount to be allocated for direct services and other purposes provided by county superintendents of schools:

(a) For programs operated pursuant to subdivision (a) of Section 14054, the Superintendent of Public Instruction shall:

(1) Determine the allowances that county superintendents received per unit of average daily attendance in the prior fiscal year. The Superintendent of Public Instruction shall increase each amount by a percentage equal to the inflation allowance calculated for the current fiscal year pursuant to Section 2557.

(2) Multiply each amount determined in paragraph (1) by the actual number of units of average daily attendance in the prior fiscal year for programs maintained by each county superintendent. For purposes of this paragraph, the number of units of average daily attendance shall include only elementary districts with less than 901 units of average daily attendance, high school districts with less than 301 units of average daily attendance, and unified school districts with less than 1,501 units of average daily attendance within each county superintendent's jurisdiction.

(b) For programs operated pursuant to subdivision (b) of Section 14054, the Superintendent of Public Instruction shall:

(1) Determine the allowances that county superintendents received per unit of average daily attendance in the prior fiscal year for programs for kindergarten and grades 1 to 12, inclusive. The Superintendent of Public Instruction shall increase each amount by a percentage equal to the inflation allowance calculated in Section 2557.

(2) Multiply each amount determined in paragraph (1) by the estimated units of average daily attendance in the current fiscal year for programs for kindergarten and grades 1 to 12, inclusive, maintained by each county superintendent. For the purposes of this paragraph, the estimate shall include only the total units of average daily attendance credited to all elementary, high school, and unified school districts within each county superintendent's jurisdiction and to the county superintendent.

SEC. 3. Section 2551 of the Education Code is amended to read:

2551. The Superintendent of Public Instruction shall perform the

computations prescribed in this section to determine each county superintendent's revenue limit for county superintendent responsibilities and district services:

(a) For the 1981–82 fiscal year, the superintendent shall add to the revenue limit amount computed pursuant to subdivision (a) of Section 2551 for the 1980–81 fiscal year, the revenue limit amount computed pursuant to Section 2552 for the 1980–81 fiscal year reduced by 55.9 percent. This adjusted revenue limit shall then be increased by the inflation allowance calculated in subdivision (a) of Section 2557.

(b) For the 1981–82 fiscal year and for each fiscal year thereafter, the Superintendent of Public Instruction shall increase the amount calculated in subdivision (a) by the amounts computed according to Sections 2507.5 and 2510.

(c) The total amounts for each program calculated pursuant to subdivision (a) may be used for any of the services or programs specified in this section, or Section 2552 as it read prior to the enactment of this act.

SEC. 4. Section 2557 of the Education Code is amended to read:

2557. (a) For each fiscal year, the prior year revenue limits per average daily attendance, class, or instructional hour, determined in Section 2550, and the prior year total revenue limits determined in Section 2551 shall be increased by a percentage equal to the percentage increase applied to the statewide average revenue limit for unified school districts for the then current fiscal year, except for the 1981–82 fiscal year, the increase shall not exceed 7.2 percent, and for the 1983–84 fiscal year, the increase shall be 8 percent. The resulting amounts shall then be multiplied by the estimated number of classes, units of average daily attendance, instructional hour, or pupils receiving special education services, as appropriate for the then current fiscal year.

(b) Notwithstanding subdivision (a), the inflation allowance for the 1982–83 fiscal year shall be reduced by one-fourth of the amount otherwise prescribed by subdivision (a), as specified in subdivision (m) of Section 42238, except to the extent a greater allowance may be funded by funds provided by the Budget Act of 1982. The inflation allowance for each year following the 1982–83 fiscal year shall be computed as if any reduction made pursuant to this subdivision had not been made.

SEC. 5. Section 8212.5 of the Education Code is repealed.

SEC. 6. Section 8272 of the Education Code is repealed.

SEC. 7. Section 8273 of the Education Code is repealed.

SEC. 8. Section 8433 of the Education Code is repealed.

SEC. 9. Section 8446 of the Education Code is repealed.

SEC. 10. Section 8447.5 of the Education Code is amended to read:

8447.5. The State Department of Education may execute a multiyear application process. Multiyear applications may only be submitted by public and private agencies that have been fully

compliant in executing prior contracts for at least the preceding three fiscal years as evidenced by all of the following:

(a) No fiscal audit disclaimer.

(b) No program quality deficiencies.

(c) No contract compliance deficiencies.

(d) No incidents of child abuse or molestation.

(e) No program management, administrative, or staffing deficiencies.

(f) Any other criteria as may be deemed necessary to safeguard the public trust.

SEC. 11. Section 8479 of the Education Code is repealed.

SEC. 12. Section 8609 of the Education Code is repealed.

SEC. 13. Section 8616 of the Education Code is repealed.

SEC. 14. Section 8632 of the Education Code is repealed.

SEC. 15. Section 8850 of the Education Code is repealed.

SEC. 16. Section 8851 of the Education Code is repealed.

SEC. 17. Section 8853 of the Education Code is repealed.

SEC. 18. Section 8854 of the Education Code is repealed.

SEC. 19. Section 8855 of the Education Code is repealed.

SEC. 20. Section 8911 of the Education Code is amended to read:

8911. (a) The Superintendent of Public Instruction shall give highest priority to the awarding of new and continuing funds for programs serving pregnant and parenting teens to those school districts, consortiums of school districts, or county superintendents that satisfy the criteria and standards that the State Department of Education may establish for the award of new and continuing funds and which have a plan, approved by the superintendent, for coordination of pregnant and parenting teen programs available to teens within the applicable area, including, but not limited to, coordination of public and private social welfare and health service programs. Existing programs may continue to receive funding at the discretion of the superintendent.

(b) The plan shall address the following goals:

(1) Mobilizing existing services.

(2) Preventing school dropouts.

(3) Encouraging school reentry.

(4) Preventing second pregnancies.

(5) Providing pregnant and parenting teens with employability skills, and thereby assisting them to avoid dependency on public social services.

(6) Ensuring that transitional education services are provided to pregnant and parenting teens between the secondary and postsecondary levels.

(7) Ensuring that transitional services are provided to help pregnant and parenting teens who seek employment following completion of their secondary education.

(8) Improving health and nutrition.

(9) Providing adequate child care.

(10) Developing parenting skills.

(11) Providing transportation services between home and program sites to pregnant and parenting teens.

(c) The plan shall include at a minimum the following information with regard to the applicable area: the incidence of teen pregnancy, the current educational and child development resources, the current public and private resources impacting on pregnant and parenting teens, and a description of service coordinating agreements between the school district, consortium of school districts, or county superintendent and public and private agencies. The plan shall include a component describing transitional service between secondary education and postsecondary programs, and an evaluation of the impact of coordinated and comprehensive service on school dropouts, repeat pregnancies, and low infant birthweights.

(d) The plan shall identify regulatory and statutory barriers to coordination of services that exist in programs that benefit pregnant and parenting teens, schoolage parent-infant development programs, continuation school, independent studies, vocational education, child development, special education, general education, and community colleges. The plan also shall describe the district's specific plans for integrating all appropriate funding and programs to ensure that pregnant and parenting teens receive all available and necessary services. Information provided by the superintendent in his or her report to the Legislature, regarding program coordination barriers, shall be utilized as an information base in the development of a comprehensive statewide plan for pregnant and parenting teens.

(e) Notwithstanding subdivision (a), the superintendent shall notify school districts, consortiums of school districts, and county superintendents regarding the enactment of this section, and shall invite them to submit plans in accordance with this section. The superintendent shall collect and disseminate to school districts models of successful coordination plans and shall assist districts, upon request, in the development of coordination plans.

SEC. 21. Chapter 6.8 (commencing with Section 8930) of Part 6 of the Education Code is repealed.

SEC. 22. Section 8958 of the Education Code is repealed.

SEC. 23. Section 11004 of the Education Code is repealed.

SEC. 24. Section 11005 of the Education Code is amended to read:

11005. Based upon evaluations conducted pursuant to former Section 11004, the California Postsecondary Education Commission may identify projects that are ineffective or not cost-effective for termination. Funds made available as a result of that termination shall be reallocated for the awarding of new grants pursuant to Section 11003.

SEC. 25. Section 11400 of the Education Code is repealed.

SEC. 26. Section 11402 of the Education Code is repealed.

SEC. 27. Section 14022.4 of the Education Code is repealed.

SEC. 28. Section 18490 of the Education Code is repealed.

SEC. 29. Section 18491 of the Education Code is repealed.

SEC. 30. Section 18492 of the Education Code is repealed.

SEC. 31. Section 19172 of the Education Code is repealed.

SEC. 32. Section 19175 of the Education Code is amended to read:

19175. The title to all property belonging to the county free library is vested in the county. All laws applicable to the collection of county taxes shall apply to the collection of the taxes provided in Section 19170. All moneys of the county free library, whether derived from taxation or otherwise, shall be in the custody of the county treasurer.

SEC. 33. Section 19471 of the Education Code is repealed.

SEC. 34. Section 19472 of the Education Code is repealed.

SEC. 35. Section 19474 of the Education Code is repealed.

SEC. 36. Section 19657 of the Education Code is repealed.

SEC. 37. Section 32377 of the Education Code is repealed.

SEC. 38. Section 33390 of the Education Code is repealed.

SEC. 39. Section 33472 of the Education Code is amended to read:

33472. The department shall require continuation of contract requirements, such as matching of funds or provision of in-kind services, and any other provisions determined necessary by the department for intergenerational programs.

SEC. 40. Section 37304 of the Education Code is repealed.

SEC. 41. Section 37705 of the Education Code is repealed.

SEC. 42. Section 39181 of the Education Code is repealed.

SEC. 43. Section 39234 of the Education Code is repealed.

SEC. 44. Section 39310 of the Education Code is amended to read:

39310. An election held pursuant to Section 39308 or Section 39311 shall be held in conjunction with either a statewide primary or general election, or an election date specified in Section 2500 of the Elections Code.

SEC. 45. Section 39311.5 of the Education Code is repealed.

SEC. 46. Section 39312 of the Education Code is amended to read:

39312. If, at the election held pursuant to Section 39308 or Section 39311, a majority of the electors voting on the proposition vote "Yes," the governing board may proceed pursuant to this article.

SEC. 47. Section 39619.4 of the Education Code is repealed.

SEC. 48. Section 39619.8 of the Education Code is repealed.

SEC. 49. Section 41203.2 of the Education Code is repealed.

SEC. 50. Section 41408 of the Education Code is repealed.

SEC. 51. Section 41610 of the Education Code is amended to read:

41610. (a) Notwithstanding any other provision of law, commencing with the 1988–89 fiscal year any school district that has discovered an error in the attendance accounting computer program that has caused it to overstate its average daily attendance is not required to amend its prior years' reports, if the independent audit for the 1987–88 fiscal year or any previous fiscal year did not reveal the error.

Commencing with the 1989–90 fiscal year, no school district is entitled to a declining enrollment adjustment under Section 42238.5, or any other provision, for a decline in average daily attendance that

is a result of an overstatement of the 1987–88 fiscal year average daily attendance.

(b) Notwithstanding any other provision of law, any school district that has experienced all of the following shall not have its revenue limit apportionment adjusted for the 1988–89 fiscal year or any prior fiscal year as a result of any attendance reporting error occurring in the 1987–88 fiscal year or any prior fiscal year:

(1) The district has used an attendance accounting computer system since the 1978–79 school year.

(2) The attendance accounting system has been audited during the annual financial audit since the 1979–80 fiscal year and, despite the annual audits, has been found to contain an error.

(3) The district has experienced declining enrollment from the 1987–88 fiscal year to the 1988–89 fiscal year.

(c) Any school district for which subdivision (b) is applicable shall calculate its declining enrollment adjustment pursuant to Section 42251 based upon the corrected average daily attendance for the 1987–88 fiscal year rather than based upon the average daily attendance originally reported for the 1987–88 fiscal year.

SEC. 52. Section 41853.3 of the Education Code is repealed.

SEC. 53. Section 41853.5 of the Education Code is repealed.

SEC. 54. Section 41961 of the Education Code is repealed.

SEC. 55. Section 41963 of the Education Code is amended to read:

41963. No allowance of severance aid shall be made as provided in Section 41960 unless the total assessed value of taxable real property within the school district is reduced by one-half of one (0.5) percent or more during a fiscal year by reason of acquisitions giving rise to severance aid as provided in Section 41960. In determining whether or not the value of the acquisitions is equal to one-half of one (0.5) percent or more of the value of taxable real property, all of these acquisitions made during each fiscal year shall be considered as one sum.

SEC. 56. Section 41964 of the Education Code is amended to read:

41964. On or before each May 25th, the Superintendent of Public Instruction shall determine and certify to the Controller the amount of severance aid computed and to be allowed to school districts under Section 41960 for the fiscal year. On or before each June 15th, the Controller shall order the transfer, from the Motor Vehicle Transportation Tax Account in the Transportation Tax Fund to the State School Fund, of the amount of severance aid computed and to be allowed to school districts for the fiscal year as so certified, and the amount so computed and certified is hereby appropriated for purposes of the transfer. The Department of Transportation may charge or allocate to the appropriate particular projects on account of which severance aid was computed, the amounts so transferred.

SEC. 57. Section 42122.5 of the Education Code is repealed.

SEC. 58. Section 42127.10 of the Education Code is repealed.

SEC. 59. Section 42238 of the Education Code is amended to read:

42238. (a) For each fiscal year, the county superintendent of

schools shall determine a revenue limit for each school district in the county pursuant to this section.

(b) The base revenue limit for the current fiscal year shall be determined by adding to the base revenue limit for the prior fiscal year the inflation adjustment specified in Section 42238.1.

(c) Except for districts subject to subdivision (d), the base revenue limit computed pursuant to subdivision (b) shall be multiplied by the district average daily attendance computed pursuant to Section 42238.5.

(d) For districts for which the number of units of average daily attendance determined pursuant to Section 42238.5 is greater for the current fiscal year than for the 1982–83 fiscal year, compute the following amount, in lieu of the amount computed pursuant to subdivision (c):

(1) Multiply the base revenue limit computed pursuant to subdivision (c) by the average daily attendance computed pursuant to Section 42238.5 for the 1982–83 fiscal year.

(2) Multiply the lesser of the amount in subdivision (c) or 1.05 times the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the current fiscal year by the difference between the average daily attendance computed pursuant to Section 42238.5 for the current and 1982–83 fiscal years.

(3) Add the amounts in paragraphs (1) and (2).

(e) The base revenue limit per unit of average daily attendance shall be the lesser of the following amounts:

(1) The amount determined in subdivision (b).

(2) The amount computed pursuant to this section for the prior fiscal year divided by the prior fiscal year revenue limit average daily attendance times the sum of 1.0 and twice the percentage increase in revenue limits computed pursuant to Section 42238.1 for the current fiscal year.

(f) For districts electing to compute units of average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (c) or (d), as appropriate.

(h) The Superintendent of Public Instruction shall apportion to each school district the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior years taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code.

(7) The amount, if any, received pursuant to any provision of the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), except for any amount received pursuant to Section 33401 or 33676 of the Health and Safety Code that is used for land acquisition, facility construction, reconstruction, or remodeling, or deferred maintenance, except for any amount received pursuant to Section 33492.15, 33607.5, or 33607.7 of the Health and Safety Code that is allocated exclusively for educational facilities.

SEC. 60. Section 42238.7 of the Education Code is repealed.

SEC. 61. Section 42238.9 of the Education Code is amended to read:

42238.9. The amount per unit of average daily attendance subtracted pursuant to Section 56712 for revenue limits for pupils in special classes and centers shall be the district's total revenue limit for the current fiscal year computed pursuant to Section 42238, including funds received pursuant to Article 4 (commencing with Section 42280), but excluding funds received pursuant to Section 42238.8, divided by the district's current year average daily attendance pursuant to Section 42238.5.

SEC. 62. Section 42238.10 of the Education Code is repealed.

SEC. 63. Section 42246 of the Education Code is amended to read:

42246. (a) For the purposes of this article, the Superintendent of Public Instruction shall prescribe regulations that will provide consistent and uniform implementation of the law herein, except as specified in subdivision (b).

(b) The Controller shall establish standards and procedures governing the auditing of claims by school districts for the payment of actual costs as necessary to ensure compliance with Sections 42243.6, 42243.8, 42243.9, 42247, 42247.1, 42247.2, 42247.3, 42247.4, 42249, and 42249.2, and to determine all of the following:

(1) That the costs and programs are for the purposes of desegregation or alleviation of the harmful effects of racial segregation, as provided in the plan submitted by the school district pursuant to Section 42247.1.

(2) That the costs are costs in excess of the school district's expenditure levels for regular educational programs.

(3) That the costs are neither excessive nor unreasonable.

(c) The Controller shall make available to school districts the standards and procedures established pursuant to subdivision (b), and shall update the standards and procedures as may be required.

SEC. 64. Section 42247.3 of the Education Code is amended to read:

42247.3. (a) Reimbursements authorized by Section 42243.9 for programs operating pursuant to a final court order issued prior to the

effective date of this section shall not exceed the sum of paragraphs (1) and (2):

(1) The audited costs approved by the Controller and incurred during the 1984–85 fiscal year, increased by the adjustment calculated pursuant to Section 42247.2.

(2) The amount in excess of one-fifth of the amount obtained by subtracting subparagraph (B) from subparagraph (A):

(A) The audited costs approved by the Controller for reimbursement pursuant to Section 42243.6 for the then current fiscal year.

(B) The amount computed pursuant to paragraph (1).

(b) Reimbursements authorized by Section 42243.9 for programs operating pursuant to a final federal court order issued prior to January 1, 1986, but not implemented until the 1985–86 fiscal year, shall not exceed the sum of paragraphs (1) and (2):

(1) The audited costs approved by the Controller and incurred during the 1986–87 fiscal year, increased by the adjustment calculated pursuant to Section 42247.2 for each fiscal year thereafter.

(2) The amount in excess of one-fifth of the amount obtained by subtracting subparagraph (B) from subparagraph (A).

(A) The audited costs approved by the Controller for reimbursement pursuant to Section 42243.6 for the then current fiscal year.

(B) The amount computed pursuant to paragraph (1).

SEC. 65. Section 42248 of the Education Code is repealed.

SEC. 66. Section 42251 of the Education Code, as added by Chapter 82 of the Statutes of 1989, is repealed.

SEC. 67. Section 42251 of the Education Code, as added by Chapter 83 of the Statutes of 1989, is repealed.

SEC. 68. Section 42268 of the Education Code is amended to read:

42268. (a) The Superintendent of Public Instruction shall annually report to the State Allocation Board, for the purposes of Section 17746.8, the number of pupils in excess of capacity certified by the district pursuant to subdivision (b) of Section 42263, or the number of pupils prescribed by subdivision (b) of this section, whichever is greater.

(b) In the first year of funding for a schoolsite under Section 42263, if the number of pupils certified in excess of the capacity of the schoolsite is less than 5 percent of capacity, the number of pupils reported by the superintendent shall be equal to 5 percent of capacity. In the second year of that funding, if the number of pupils certified in excess of the capacity of the schoolsite is less than 10 percent of capacity, the number of pupils reported by the superintendent shall be equal to 10 percent of capacity. In the third, and each subsequent year of that funding, if the number of pupils certified in excess of the capacity of the schoolsite is less than 15 percent of capacity, the number of pupils reported by the superintendent shall be equal to 15 percent of capacity.

SEC. 69. Section 42288 of the Education Code is repealed.

SEC. 70. Section 42289 of the Education Code is amended to read:

42289. Notwithstanding any other provision of law, for each fiscal year, prior to calculating the increase in funding amount specified in Section 42287, the Superintendent of Public Instruction shall increase the funding amounts specified in Sections 42281, 42282, and 42284, by the product of subdivisions (a) and (b):

(a) The amount per unit of average daily attendance received by the district pursuant to Section 46201 in the prior fiscal year.

(b) The average daily attendance for each necessary small school and necessary small high school for which the district received funding in the prior fiscal year pursuant to Section 42281, 42282, or 42284, as appropriate.

SEC. 71. Section 42950.1 of the Education Code is repealed.

SEC. 72. Section 43000 of the Education Code is repealed.

SEC. 73. Section 43002 of the Education Code is repealed.

SEC. 74. Section 44102 of the Education Code is repealed.

SEC. 75. Section 44104 of the Education Code is amended to read:

44104. The department, out of funds appropriated for such purposes, (1) shall provide assistance to local educational agencies in adopting and maintaining high-quality affirmative action programs and (2) develop and disseminate to public education agencies guidelines to assist the agencies in developing and implementing affirmative action employment programs.

SEC. 76. Section 44225.5 of the Education Code is amended to read:

44225.5. The Commission on Teacher Credentialing shall adopt standards for the issuance of teaching credentials to persons who received a score equal to or exceeding the minimum acceptable score set by the commission.

SEC. 77. Section 44227.4 of the Education Code is repealed.

SEC. 78. Section 44235.2 of the Education Code is repealed.

SEC. 79. Section 44255 of the Education Code is repealed.

SEC. 80. Section 44258.15 of the Education Code is amended to read:

44258.15. Notwithstanding Section 44258.1, the holder of a credential authorizing instruction in a self-contained classroom may provide instruction in a team teaching setting or may regroup pupils across classrooms in subjects authorized by the governing board of the school district.

SEC. 81. Section 44276 of the Education Code is amended to read:

44276. (a) The Legislature hereby finds and declares that California's public school pupils need quality instruction and support in the areas of computer education in order to develop the skills necessary for entry into an increasingly technological society. The Legislature recognizes that computers and other technologies are an integral part of contemporary society and the state educational system.

It is the intent of the Legislature in enacting this section to provide a statewide standard for the preparation of educational personnel in

the areas of computer education.

(b) For purposes of this section, "computer education" means the process of teaching pupils about computers.

(c) The Commission on Teacher Credentialing, in consultation with the Superintendent of Public Instruction, may develop and disseminate voluntary standards for the training and performance of teachers and resource personnel in the area of computer education.

SEC. 82. Section 44276.1 of the Education Code is amended to read:

44276.1. (a) The Legislature finds and declares the following:

(1) The education mission of schools may be thwarted when school campuses are not safe, secure, and peaceful.

(2) Effective school management can improve school safety and decrease violence and criminal behavior.

(3) In many school districts and neighborhoods, violence and criminal behavior are increasingly frequent.

(4) Teachers and other educators who are well prepared in principles of school safety may be able to mitigate to some degree the detrimental behavior of pupils and others on school campuses.

Therefore, it is the intent of the Legislature that the Commission on Teacher Credentialing adopt standards that address the principles of school safety in the preparation of future classroom teachers, school administrators, school counselors, and other pupil personnel service providers as a condition for licensing these prospective practitioners.

(b) Standards adopted by the commission pursuant to paragraph (3) of subdivision (b) of Section 44259, and pursuant to Sections 44266, 44270, 44277, and 44372, shall include the effective preparation of prospective classroom teachers, school administrators, school counselors, and other pupil personnel service providers in principles of school safety. In developing these standards, the commission shall consider, but is not limited to considering, the following principles of school safety:

(1) School management skills that emphasize crisis intervention and conflict resolution.

(2) Developing and maintaining a positive and safe school climate, including methods to prevent the possession of weapons on school campuses.

(3) Developing school safety plans.

(4) Developing ways to identify and defuse situations that may lead to conflict or violence.

(c) In developing standards relating to school safety, the commission shall consider the findings and recommendations of an advisory panel of experts on school violence.

(d) The commission shall allow an institution of postsecondary education to meet the standards developed by the commission relating to school safety by incorporating the principles of school safety in the program required by paragraph (3) of subdivision (b) of Section 44259.

(e) Implementation of subdivision (b) of this section as it applies to paragraph (3) of subdivision (b) of Section 44259 shall occur in conjunction with the review of requirements for earning and renewing multiple and single subject teaching credentials, as required by Section 44259.2.

(f) Effective January 1, 1996, instruction in principles of school safety shall be required of all candidates for credentials specified in Sections 44259, 44266, and 44270.

(g) A credential that was issued prior to January 1, 1994, shall remain in force as long as it is valid under the laws and regulations that were in effect on the date it was issued. The commission may not, by regulation, invalidate an otherwise valid credential unless it issues to the holder of the credential, in substitution, a new credential authorized by another provision in this chapter that is no less restrictive than the credential for which it was substituted with respect to the kind of service authorized and the grades, classes, or types of schools in which it authorizes service.

(h) Notwithstanding this section, persons who were performing teaching, administrative, counseling, or other pupil personnel services as of January 1, 1994, pursuant to the language of this chapter that was in effect prior to that date, may continue to perform those services without complying with any requirements added by the amendments adding this section.

(i) The commission shall grant credentials based on the requirements for those credentials as of December 31, 1993, to candidates who, prior to the effective date of the commission's adoption of standards pursuant to this section, were in the process of meeting those credential requirements.

SEC. 83. Section 44276.5 of the Education Code is repealed.

SEC. 84. Section 44276.6 of the Education Code is amended to read:

44276.6. It is the intent of the Legislature that the Commission on Teacher Credentialing not duplicate the efforts of the State Department of Education, Office of Criminal Justice Planning, Department of the Youth Authority, and the School/Law Enforcement Partnership in undertaking leadership activities directed toward establishing appropriate standards of preparation for teachers and other certificated personnel concerning violent behavior by pupils. The commission shall consult with these agencies and consider policies, programs, guidelines, other resource and training materials, and experts, which these agencies have identified, funded, or developed to reduce violent behavior by pupils.

SEC. 85. Section 44301 of the Education Code is amended to read:

44301. (a) Any person who does not hold a valid California teaching credential that requires a baccalaureate degree shall be required to pass the appropriate subject matter competency examination or examinations, as determined by the commission, before he or she may be initially issued an emergency multiple- or single-subject teaching permit, except an emergency substitute

teaching permit, authorizing him or her to teach a subject that is specified by the commission.

(b) The commission may issue an emergency multiple- or single-subject teaching permit to an applicant who has not taken the appropriate subject matter competency test, provided the employing agency certifies all of the following to the commission:

(1) The applicant has not had the opportunity to take the test.

(2) The applicant shall take the appropriate subject matter competency test at its next regularly scheduled administration.

(3) The employing agency shall discontinue employment of the person eight weeks after the date on which the test is administered if he or she does not give the employing agency evidence of having passed the required subject matter competency test on that date.

(c) The emergency teaching permit issued pursuant to subdivision (b) shall expire on the next regular expiration date for emergency permits, or on a date that is eight weeks after the date on which the required subject matter competency test was administered, whichever date comes first.

(d) The commission shall waive the requirements of this section for each applicant for each of the following:

(1) An emergency single-subject teaching permit, if the applicant has successfully completed at least 18 semester units, or nine semester units of upper division or graduate coursework, at a regionally accredited institution of postsecondary education, in the subject area to be taught.

(2) An emergency multiple-subjects permit, if the applicant has successfully completed at least 40 semester units, or the equivalent, at a regionally accredited institution of postsecondary education, in the subjects that are commonly taught in elementary schools, as determined by the commission.

SEC. 86. Section 44327 of the Education Code is amended to read:

44327. (a) The commission, in consultation with participating school districts and other affected organizations, shall adopt standards related to the quality of the training, support, evaluation, and performance of district interns. The standards shall be appropriate for an alternative program of teacher recruitment, preparation, and certification. To the extent feasible, the standards shall also be equivalent to the standards of the commission for professional preparation programs in colleges and universities.

(b) The commission shall periodically review district intern programs on the basis of the standards adopted pursuant to subdivision (a).

(c) The commission is not authorized to approve district intern programs.

SEC. 87. Section 44329 of the Education Code is repealed.

SEC. 88. Section 44492.5 of the Education Code is repealed.

SEC. 89. Section 44764 of the Education Code is repealed.

SEC. 90. Section 44775 of the Education Code is repealed.

SEC. 91. Section 44834.2 of the Education Code is amended to

read:

44834.2. It is the intent of the Legislature that the minimum requirements for the administrative services credential prescribed by Sections 44270 and 44270.1 include an integration of theoretical knowledge and the demonstration of skills. It is further the intent of the Legislature that the minimum requirements for the administrative services credential reflect an appropriate balance of coursework, supervised fieldwork, and related experiences designed to contribute to the development and improvement of the educational leadership skills necessary to perform the duties of a school administrator.

SEC. 92. Section 44904 of the Education Code is repealed.

SEC. 93. Section 44905 of the Education Code is repealed.

SEC. 94. Section 44931 of the Education Code is amended to read:

44931. Whenever any certificated employee of any school district who, at the time of his or her resignation, was classified as permanent, is reemployed within 39 months after his or her last day of paid service, the governing board of the district shall, disregarding the break in service, classify him or her as, and restore to him or her all of the rights, benefits and burdens of, a permanent employee, except as otherwise provided in this code. However, time spent in active military service, as defined in Section 44800, subsequent to the last day of paid service shall not count as part of the aforesaid 39-month period.

SEC. 95. Section 44959 of the Education Code is amended to read:

44959. As to any permanent certificated employee whose services have been terminated because of the effect of wars in which the United States is engaged upon the attendance of pupils or upon the maintenance of a particular kind of service, the effective period covered by all rights enumerated in Section 44956 is extended until two years after the cessation of hostilities, and in addition thereto for a like period these employees shall have the following rights:

(a) He or she may voluntarily accept termination of service in other than the order of original employment and retain all of the other rights herein provided.

(b) If he or she is engaged in any form of civilian or military war service, any credential or certificate he or she holds is continued in full force and effect until 90 days after the termination of his or her employment therein.

(c) If, either before or after such termination, he or she engages in any form of war service for which provision is made in Section 44800 or elsewhere in the laws of this state, he or she shall retain all rights granted by that war service legislation as though still employed. However, the right to reappointment shall be in the order of original employment, as determined in accordance with the provisions of Sections 44844 and 44845.

SEC. 96. Section 44966 of the Education Code is amended to read:

44966. The governing board of any school district may grant any employee of the district employed in a position requiring

certification qualifications, a leave of absence for not to exceed one year for the purpose of permitting study or travel by the employee which will benefit the schools and pupils of the district. The governing board may provide that the leave of absence be taken in separate six-month periods or separate quarters rather than for a continuous one-year period, provided that the leave of absence for both of the separate six-month periods or any or all quarters shall be commenced and completed within a three-year period. Any period of service by the individual intervening between the two separate six-month periods or separate quarters of the leave of absence shall comprise a part of the service required for a subsequent leave of absence.

SEC. 97. Section 45023.4 of the Education Code is repealed.

SEC. 98. Section 45037 of the Education Code is repealed.

SEC. 99. Section 45164 of the Education Code is repealed.

SEC. 100. Section 45344.5 of the Education Code is amended to read:

45344.5. (a) Commencing on March 1, 1982, no person shall be initially assigned to assist in instruction as an instructional aide unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills up to or exceeding that required by the employing district for high school seniors under Section 51216 if the employing district educates high school students. If the employing district is an elementary school district, the aide shall demonstrate proficiency in basic reading, writing, and mathematics skills up to or exceeding that required for high school seniors under Section 51216 in the high school district that includes all or the largest portion of the elementary district.

(b) A school district may charge aides, including prospective aides, taking the district's proficiency test, a fee to fund the costs incurred by the district in giving the test. This fee may be subject to negotiation between the district and the exclusive representative of instructional aides, but in no event shall the fee exceed seven dollars ($7).

(c) An instructional aide who passes a district proficiency test as required by this section, transfers to another district, and is employed in the same capacity shall be considered to have met the proficiency standards for purposes of this section unless the district to which he or she has transferred determines that the test taken by the aide is not comparable to the standards required by the employing district.

SEC. 101. Section 46142 of the Education Code is amended to read:

46142. (a) The minimum schoolday in any junior high school or high school described in Section 46141 may be computed by determining the number of minutes of attendance in any two consecutive schooldays and dividing that number by two. If the resulting quotient is 240 or more, the pupils shall be deemed to have complied with Section 46141, even if the number of minutes attended in any one schoolday is less than 240, but not less than 180.

(b) No computation authorized by this section shall result in any increase in state apportionments.

SEC. 102. Section 46151 of the Education Code is repealed.

SEC. 103. Section 48232 of the Education Code is amended to read:

48232. Notwithstanding any other provision of law, a child who will be 15 years old at the time a leave of absence is to begin may take a leave of absence from school for a period of up to one semester, if all of the following conditions are satisfied:

(a) The school district governing board adopts a written policy to allow pupil leaves of absence consistent with this section.

(b) The purpose of the leave is supervised travel, study, training, or work not available to the pupil under another education option.

(c) A written agreement is entered into that is signed by the child's parent or guardian, the principal or administrative officer of the school which the child would otherwise attend, a classroom teacher familiar with the child's academic progress selected by the child, and the district supervisor of child welfare and attendance, and that provides for all of the following:

(1) The purpose of the leave.

(2) The length of time the child will be on leave.

(3) A meeting between, or contact with, the child and a school official designated in the agreement at least once a month while the child is on leave.

(4) A statement incorporating the provisions contained in subdivision (b).

(d) The child shall be entitled to return to school at any time. No child who takes a leave of absence shall be penalized from completing his or her academic requirements within a time period equal to that of classmates who did not take a leave of absence, plus a period of time equal to the leave of absence. However, when a child reenrolls at any time other than the beginning of a semester, the school shall not be required to give makeup sessions during that semester for the classes that the child has missed.

(e) A leave of absence may be extended for an additional semester upon approval by all parties to the written agreement and the local school attendance review board.

(f) No leave of absence may be taken that would continue past the end of the school year in which the leave is taken.

(g) If the pupil does not contact the designated school official as stipulated in the written agreement, the leave of absence shall be nullified.

Any party to the written agreement may nullify the agreement for cause at any time.

(h) No more than 1 percent of the pupils enrolled and in attendance at each school shall be permitted to take a leave of absence during each academic year.

SEC. 104. Section 48644.3 of the Education Code is repealed.

SEC. 105. Section 49068.5 of the Education Code is amended to

read:

49068.5. Upon the initial enrollment of a pupil in a public or private elementary school; or whenever an elementary school pupil (a) transfers from one school district to another, (b) transfers to an elementary school within the same district, (c) transfers from one private elementary school to another, (d) transfers from a private elementary school to a public elementary school, or (e) transfers from a public elementary school to a private elementary school, the principal of the school that the child enters or to which he or she transfers is urged to check to see if the child resembles a child listed as missing by the bulletins provided by the Department of Justice pursuant to Section 14201 of the Penal Code.

SEC. 106. Section 49150.5 of the Education Code is repealed.

SEC. 107. Section 49427 of the Education Code is amended to read:

49427. (a) It is the intent of the Legislature that the governing board of each school district and each county superintendent of schools maintain fundamental school health services at a level that is adequate to accomplish all of the following:

(1) Preserve pupils' ability to learn.

(2) Fulfill existing state requirements and policies regarding pupils' health.

(3) Contain health care costs through preventive programs and education.

(b) The Legislature finds and declares that the provision of these services may be in jeopardy due to the current caseloads in the public schools, and that failure to maintain adequate health services and standards will result in pupils' poorer health and ability to learn.

SEC. 108. Section 49582 of the Education Code is amended to read:

49582. The State Department of Education shall prescribe guidelines for the early diagnosis of the learning disabilities testing program and pilot project. The guidelines shall include, but need not be limited to, all of the following:

(a) A definition of "pupils with the potential to develop learning disability problems," as used in this article.

(b) The methods and criteria for selecting one or more sites for the establishment of the pilot project.

(c) The number of sites to be selected for purposes of establishing the pilot project.

(d) Criteria for judging the results and effectiveness of the early diagnosis testing program, as well as criteria for determining the feasibility for implementing the program at the conclusion of the pilot project.

SEC. 109. Section 49583 of the Education Code is repealed.

SEC. 110. Section 51215 of the Education Code is amended to read:

51215. (a) The governing board of each school district maintaining a junior or senior high school shall adopt standards of

proficiency in basic skills for pupils attending school within its school district.

(b) The governing board of each school district maintaining grade 6 or 8, or the equivalent, shall adopt standards of proficiency in basic skills for pupils attending these grades.

(c) These standards shall include, but need not be limited to, reading comprehension, writing, and computation skills, in the English language, necessary to success in school and life experiences, and shall be such as will enable individual achievement to be ascertained and evaluated.

The standards shall be directly related to the district's instructional program.

(d) Differential standards and assessment procedures that shall include, but need not be limited to, reading comprehension, writing, and computation skills, shall be adopted pursuant to this subdivision.

(1) Differential standards and assessment procedures shall be adopted for pupils who meet all of the following conditions:

(A) Are enrolled in special education programs pursuant to Part 30 (commencing with Section 56000); or for whom individualized education programs have been developed, and for whom the regular instructional program has been modified, as necessary, under the supervision of a person who holds an appropriate credential in special education.

(B) Have diagnosed learning handicaps or disabilities such that the individualized education program team determines they have not demonstrated evidence of the ability to attain the district's regular proficiency standards with appropriate educational services and support.

(2) If the team determines that these pupils have not demonstrated evidence of the ability to attain the district's regular proficiency standards with appropriate educational services and support, the team shall develop differential proficiency standards or modify general differential standards adopted by the governing board, appropriate to the needs and potential of the pupil.

(3) Any differential standards shall be included in the individualized education program developed for the pupil pursuant to Part 30 (commencing with Section 56000).

(4) The determination and the development of differential proficiency standards shall be part of the process of developing, reviewing, and revising a pupil's individualized education program.

(5) In the case where one or more differential standards are developed for a pupil enrolled in special education, the standards may be maintained throughout the pupil's school experience, irrespective of whether the pupil continues to be enrolled in special education.

(6) Nothing in this subdivision shall be construed to require differential proficiency standards for a pupil who a team determines can attain the district's regular proficiency standards with appropriate educational services and support.

(7) This subdivision shall apply prospectively and retroactively to pupils enrolled in the 9th grade, or the equivalent thereof, during the school year.

(8) Differential standards and assessment procedures adopted pursuant to this subdivision shall permit the pupil for whom they are adopted to attain the standards within a reasonable amount of time but not after the state is no longer required by state or federal law to provide an education to the pupil.

(9) It is the intent of the Legislature that the attainment of a standard of proficiency by a pupil shall also reflect the attainment of a reasonable level of competence. The Legislature, therefore, recognizes that there may be some pupils who cannot meet regular or differential standards of proficiency, in reading, writing, and mathematics skills, and others who will need to remain in school beyond grade 12 or the equivalent in order to meet a standard which reflects their maximum potential.

(10) For pupils with diagnosed learning disabilities, as well as for pupils participating in the regular school program, proficiency assessments may be part of the classroom experience, and teaching materials may be used as assessment materials.

(e) Governing boards maintaining elementary or junior high schools located within a school district maintaining a high school shall adopt standards of proficiency in basic skills which are articulated with those standards adopted by the school district maintaining the high school.

(f) Designated employees of all school districts located within a high school district and one or more designees of the high school district shall meet as necessary to review the effectiveness of articulation procedures.

(g) Standards of proficiency shall be adopted by the governing board with the active involvement of parents broadly reflective of the socioeconomic composition of the district, administrators, teachers, counselors, and, with respect to standards in secondary schools, pupils.

SEC. 111. Section 51217 of the Education Code is amended to read:

51217. (a) No pupil who was enrolled in the 9th grade, or the equivalent thereof, shall receive a diploma of graduation from high school if he or she has not met the standards of proficiency in basic skills prescribed by the secondary school district governing board and the school district has developed and made available to the pupil remedial instruction programs in basic skills for at least two consecutive sessions. For purposes of this section, a session shall include a semester or summer session in a public school.

(1) A pupil who does not receive a diploma pursuant to this section shall later be awarded a diploma by the district he or she last attended, without taking additional coursework, if the pupil passes the district's proficiency examination in basic skills necessary for graduation and meets all other graduation requirements.

(2) Funding for these remedial courses shall be provided only for services to students during the semester following the semester in which the pupil would have graduated if he or she had met the district's prescribed proficiency standards.

(b) The State Board of Education shall prepare and distribute to each school district maintaining a junior or senior high school and to each district maintaining an elementary school, a framework for assessing pupil proficiency in reading comprehension, writing, and computation skills. The framework shall include a range of assessment items in each skill area. The assessment framework shall be provided solely to assist each school district in the development of its own pupil assessments as required by Section 51216.

(c) Nothing in this section shall be construed to authorize or permit the state board to adopt statewide minimum proficiency standards for high school graduation.

SEC. 112. Section 51219.5 of the Education Code is repealed.

SEC. 113. Section 51229 of the Education Code is amended to read:

51229. (a) The Legislature hereby finds and declares all of the following:

(1) That abstinence is the only completely effective method of preventing pregnancy, acquired immune deficiency syndrome (AIDS), and other sexually transmitted diseases.

(2) That existing law does not provide for either specific instruction or instructional materials in the curriculum to address the issue of abstinence from sexual intercourse, exclusive from other sexual behavior.

(b) The Superintendent of Public Instruction shall contract with an organization to develop a videotape and supplementary materials that would teach abstinence from sexual activity.

(c) Schools electing to use this videotape may use it within the context of comprehensive health education programs.

(d) The videotape and supplementary materials shall be compatible with the Family Life Education Guidelines adopted in 1987 by the State Board of Education and shall, at a minimum, do all of the following:

(1) Present the main theme of "It's Okay To Say No To Sex," that would be directed to pupils in grades 7 to 12, inclusive.

(2) Be pupil-centered, not teacher-centered, using pupils as presenters in the video to reflect the pressure pupils feel from their peers, both male and female and from the media. The content of the video shall be acceptable for presentation on television and of high enough quality to be used as shorts on television as public service announcements.

(3) Focus on the process of decisionmaking that pupils use when confronted with decisions about engaging in sex. The video shall portray refusal skills and reflect the decisionmaking processes taught in the school curriculum.

(4) Portray vignettes dispelling myths on why pupils engage in

sex.

(5) Portray strategies for saying no for males and females.

(6) Discuss the topic of abstinence and encourage teens to take responsibility and make ethical and reasoned decisions in the prevention of teen pregnancy, with the idea of the videotapes being used over a long period of time.

(e) The videotape and the supplementary materials shall be reviewed by the State Board of Education.

SEC. 114. Section 51264 of the Education Code is amended to read:

51264. (a) The State Department of Education shall prepare and distribute to school districts and county offices of education guidelines for incorporating in-service training in gang violence and drug and alcohol abuse prevention for teachers, counselors, athletic directors, school board members, and other educational personnel into the staff development plans of all school districts and county offices of education.

(b) The department shall, upon request, assist school districts and county offices of education in developing comprehensive gang violence and drug and alcohol abuse prevention in-service training programs. The department's information and guidelines, to the maximum extent possible, shall encourage school districts and county offices of education to avoid duplication of effort by sharing resources, adapting or adopting model in-service training programs, developing joint and collaborative programs, and coordinating efforts with existing state staff development programs, county gang violence and drug and alcohol staff development programs, county health departments, county and city law enforcement agencies, and other public and private agencies providing health, drug, alcohol, gang violence prevention, or other related services at the local level.

(c) The department shall assist school districts and county offices of education in qualifying for the receipt of federal and state funds to support their gang violence and drug and alcohol abuse prevention in-service training programs.

(d) Each school that chooses to utilize the provisions of this article related to in-service training in gang violence and drug and alcohol abuse prevention, is encouraged to develop a single plan to strengthen its gang violence and drug and alcohol abuse prevention efforts. If a school develops or has developed a school improvement plan pursuant to Article 2 (commencing with Section 52010) of Chapter 6 of Part 28, or a school safety plan pursuant to Article 10.3 (commencing with Section 35294) of Chapter 2 of Part 21, it is encouraged to incorporate into that plan, where appropriate, the gang violence and drug and alcohol prevention plan that it has developed.

(e) The department shall consult with the Office of Criminal Justice Planning regarding gang violence.

(f) On or before August 15 of each year, the department shall report to the Legislative Analyst and the fiscal, education, and

appropriate select committees of each house of the Legislature, on the status of gang violence and drug and alcohol abuse prevention in-service training programs provided by school districts and county offices of education.

SEC. 115. Section 51266 of the Education Code is amended to read:

51266. (a) The Office of Criminal Justice Planning, in collaboration with the State Department of Education, shall develop a model gang violence suppression and substance abuse prevention curriculum for grades 2, 4, and 6. The curriculum for grades 2, 4, and 6 shall be modeled after a similar curriculum that has been developed by the Orange County Office of Education for grades 3, 5, and 7. The Office of Criminal Justice Planning, in collaboration with the State Department of Education, may contract with a county office of education for the development of the model curriculum. The model curriculum shall be made available to school districts and county offices of education and shall, at a minimum, provide for each of the following:

(1) Lessons for grades 2, 4, and 6 that are aligned with the state curriculum frameworks for history, social science, and English and language arts.

(2) Instructional resources that address issues of ethnic diversity and at-risk pupils.

(3) The integration of the instructional resources of the Office of Criminal Justice Planning and the School/Law Enforcement Partnership in order to support the school curriculum and assist in the alignment of the state curriculum framework.

(b) The Office of Criminal Justice Planning shall develop an independent evaluation of the pupil outcomes of the model gang violence suppression and substance abuse prevention curriculum program.

SEC. 116. Section 51267 of the Education Code is repealed.

SEC. 117. Section 51749.3 of the Education Code is amended to read:

51749.3. The Superintendent of Public Instruction shall establish rules and regulations for the purposes of implementing this article.

SEC. 118. Section 51757 of the Education Code is repealed.

SEC. 119. Section 51900 of the Education Code is amended to read:

51900. The department shall prepare and distribute to school districts guidelines for the preparation of comprehensive health education plans, and, in cooperation with those county offices of education which desire to participate, assist school districts in developing comprehensive health education plans and programs. For this purpose, the department shall assume the following functions and carry out the following duties:

(a) Assist in the development of model curricula for the public schools for comprehensive health education programs consistent with the provisions and intent of approved district comprehensive

health education plans.

(b) Identify innovative teaching methods for the instruction in health in the public schools.

(c) With the cooperation and assistance of the State Department of Health, develop methods of evaluating the effectiveness of instruction in health.

(d) Develop model instructional materials for comprehensive health education courses and make these materials available to local school districts.

(e) In cooperation with the Commission on Teacher Credentialing, assist teacher training institutions in development of courses on comprehensive health education.

(f) Assist in the development of adult education programs which include parents, students, and community health agencies and personnel.

(g) With the cooperation of, and assistance of, the qualified instructional staffs of state-supported public institutions of higher education, develop and establish a health education training program for public school teachers and administrators to provide in-service training at the local district or regional level.

SEC. 120. Section 51900.5 of the Education Code is repealed.

SEC. 121. Section 52106 of the Education Code is amended to read:

52106. Incentive funding for the Language Arts Enrichment Program in Grades 1 to 3, inclusive, shall be apportioned in accordance with this section.

(a) Enrollment in grades 1 to 3, inclusive, used to calculate district apportionments shall be certified as of October 1 of the prior fiscal year. This enrollment figure shall equal total enrollment minus the number of special education pupils enrolled in special day classes on a full-time basis.

(b) Funds apportioned pursuant to this section shall not become part of a district's revenue limit, and shall be identified as a separate item of expenditure on financial reports filed by school districts with the state pursuant to statute or regulation.

SEC. 122. Section 52134 of the Education Code is repealed.

SEC. 123. Section 52164.6 of the Education Code is amended to read:

52164.6. Reclassification criteria shall be established by each school district in which pupils of limited English proficiency are enrolled. The criteria shall determine when pupils of limited English proficiency have developed the English language skills necessary to succeed in an English-only classroom. The reclassification process shall, at a minimum, utilize multiple criteria, including, but not limited to, all of the following:

(a) Teacher evaluation, including a review of the pupil's curriculum mastery.

(b) Objective assessment of language proficiency and reading and writing skills.

(c) Parental opinion and consultation.

(d) An empirically established range of performance in basic skills, based on nonminority English-proficient pupils of the same grade and age, which demonstrates that the pupil is sufficiently proficient in English to succeed in an English-only classroom.

The board shall adopt regulations setting forth standards for language reclassification criteria to be adopted by school districts. The board's regulations shall, at a minimum, prescribe a reclassification process that utilizes multiple criteria as required by this section.

Each school district shall, in following the board's regulations establish criteria for determining when pupils of limited English proficiency enrolled in programs defined in Section 52163 have developed the English language skills of comprehension, speaking, reading, and writing necessary to succeed in an English-only instructional setting.

SEC. 124. Section 52169 of the Education Code is amended to read:

52169. (a) The requirements for establishing programs mandated pursuant to subdivision (b) of Section 52165 shall be in effect beginning with the 1977–78 school year.

(b) Nothing contained in this section shall be interpreted to authorize school districts to reduce per pupil expenditures from local, state, or federal sources for the education of limited-English-speaking pupils.

SEC. 125. Section 52171 of the Education Code is amended to read:

52171. Each district shall submit annually to the department an evaluation of pupil progress for every program that has been approved pursuant to this article in a form and manner prescribed by the superintendent.

SEC. 126. Section 52171.6 of the Education Code is amended to read:

52171.6. (a) The superintendent shall report annually to the Legislature on bilingual education programs as part of the multiple-funded program evaluation required pursuant to Section 33403. The superintendent shall coordinate the design of school district and state evaluations to minimize the data collection and reporting requirements at the school and district levels. Pupil performance data for bilingual programs may be collected and analyzed on a sample basis with appropriate controls for pupil and instructional program characteristics.

The multiple-funded program evaluation shall include all of the following:

(1) A summary of district reports submitted pursuant to subdivision (a) of Section 52170 on the number of identified pupils of limited-English proficiency, funds from all sources available for programs to meet the needs of those identified pupils, and the numbers of identified pupils who are not being provided with

services pursuant to subdivision (a), (b), (c), (d), (e), or (f) of Section 52163.

(2) Information on bilingual programs conducted pursuant to Section 52165, on all of the following:

(A) The number of limited-English proficiency and fluent-English-speaking pupils served in the program.

(B) The number of teachers holding bilingual credentials or certificates of competency, bilingual aides, teachers who have waivers, and language development specialists.

(C) Expenditures made from bilingual education funds by category of expenditure.

(D) The number of pupils reclassified and district level procedures for reclassification pursuant to Section 52164.6.

(E) A summary report of programs conducted pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 52163.

(3) An assessment of the educational needs of pupils of limited-English proficiency and the extent to which such needs are being met from federal, state and local efforts, pursuant to subdivision (e) of Section 52177.

(4) For pupils learning a substantive amount of the curriculum through their primary language, basic skills assessment shall be conducted in the primary language only; assessment of language proficiency shall be conducted in English.

For pupils learning through both English and the primary language, basic skills assessment shall be in English; assessment of language proficiency shall be conducted in English. Pupils participating in the individual learning plan shall be assessed as appropriate pursuant to regulations, instruction, and guidelines to be issued by the superintendent. Assessment of pupils in the primary language shall be required only to the extent that appropriate instruments are available.

(5) It is the intent of the Legislature that the evaluation of programs conducted pursuant to this article shall be designed to provide the Legislature, the board, the superintendent, and program administrators at district and school levels with information necessary to assist in all of the following:

(A) Refining and improving policies, regulations, guidelines, and procedures on a continuing basis.

(B) Assessing the overall merits of local programs.

SEC. 127. Section 52177 of the Education Code is amended to read:

52177. Out of funds appropriated for these purposes, the superintendent shall administer this article. The responsibilities of the superintendent in administering this article shall include, but are not limited to, ensuring all of the following:

(a) Sufficient bilingual personnel are available within the department with familiarity, competency, and proficiency in bilingual-crosscultural instruction to meet the needs of this article

and to administer, review, monitor, and evaluate the use of state or federal categorical aid funds allocated to local districts which have been wholly or partially allocated on the basis of the educational needs of pupils of limited-English proficiency.

(b) Department personnel responsible for the administration, review, monitoring, or evaluation of programs operating pursuant to this article have been sufficiently trained to carry out the intent of this article to meet the needs of the pupil of limited-English proficiency.

(c) There is within the department an administrative unit responsible for bilingual-bicultural educational programs and policies through which the superintendent shall carry out his functions pursuant to this article.

(d) Districts are providing each pupil of limited-English proficiency with an educational opportunity equal to that available to English-speaking pupils; they are making appropriate use of local and state general funds to provide bilingual-crosscultural teachers and other required services; and an annual report is made to the Legislature regarding the extent to which this article has been implemented by school districts throughout the state. All districts in which pupils of limited-English proficiency are enrolled shall be reviewed through an onsite technical assistance, monitoring, and enforcement process at least once every three years.

(e) An annual evaluation of bilingual needs and programs within the state is developed for submission to the Legislature and to the Governor. The annual evaluation shall include a state assessment of the educational needs of pupils and other persons who are limited-English speaking, and of the extent to which these needs are being met from federal, state and local efforts.

SEC. 128. Section 52178.1 of the Education Code is repealed.

SEC. 129. Section 52178.4 of the Education Code is repealed.

SEC. 130. Section 52213 of the Education Code is repealed.

SEC. 131. Section 52321 of the Education Code is amended to read:

52321. (a) A regional occupational center or program established and maintained by school districts or joint powers agencies pursuant to Section 52301 shall receive in annual operating funds from each of the participating school districts an amount per unit of average daily attendance equal to the revenue limit received by those districts for each unit of average daily attendance generated in the regional occupational center or program.

A regional occupational center or program established and maintained by a county superintendent of schools pursuant to Section 52301 shall receive funding pursuant to Section 2550. A county superintendent of schools shall report average daily attendance to the Superintendent of Public Instruction for that funding.

(b) Any regional occupational center or program is authorized to (1) budget and accumulate an amount necessary to meet the cash

flow needs of the regional occupational center or program known as a general reserve, and (2) budget and accumulate amounts known as the designated fund balance and as the unappropriated fund balance. Alternatively, for regional occupational centers or programs established and maintained by school districts or joint powers agencies, a center or program may budget an amount necessary to meet long-term program needs of the regional occupational center or program known as capital outlay expenditures or equipment replacement. At the end of any given school year, subject to the exception provided in paragraph (2) of subdivision (c), the net ending balance may be distributed to any of the reserved accounts, provided that the combined total transferred does not exceed 15 percent of the previous year's expenditures.

(1) The general reserve, the designated fund balance, the unappropriated fund balance, and the capital outlay expenditures or equipment replacement reserved account shall be available for appropriation only after approval by a majority vote of the governing body of the regional occupational center or program.

(2) Funds of regional occupational centers or programs established and maintained by school districts or joint powers agencies shall be distributed to the capital outlay expenditures or equipment replacement reserve account only upon adoption by the governing board of a resolution specifying the general use to which each appropriation from the account would be put.

(c) (1) At the end of any given school year, the combined net ending balances of the general reserve, the designated fund balance, and the unappropriated fund balance in excess of 15 percent of the previous fiscal year's expenditures shall be returned to the districts participating in the regional occupational center or program in proportion to the district's contribution to the regional occupational center or program. The county superintendent of schools shall reduce the revenue limit of the districts by an amount equal to the excess reserves that are required to be returned to the districts. Net ending balances in excess of 15 percent, except those funds specifically set aside by the board and restricted to capital outlay expenditures or equipment replacement, in county-operated regional occupational centers or programs shall reduce the revenue limit of the county superintendent program by an amount equal to the excess reserves in that program.

(2) A regional occupational center or program established and maintained by school districts or joint powers agencies may accumulate over a period of two or more given school years, a net ending balance in the capital outlay expenditures or equipment replacement reserved account of more than 15 percent of the previous fiscal year's expenditures, under provisions of a resolution of the governing board pursuant to paragraph (2) of subdivision (b).

(d) With the exception of ending balances governed by Section 2558.5, funds placed in either the general reserve, the designated fund balance, the unappropriated fund balance, or the capital outlay

or equipment replacement accounts, shall only be expended for regional occupational center or program educational purposes.

SEC. 132. Section 52324.6 of the Education Code is amended to read:

52324.6. (a) Any regional occupational program shall be eligible to apply for apportionments as a necessary small regional occupational program under this section if it is a regional occupational program with an annual total average daily attendance of 350 or less in the prior fiscal year, and the regional occupational program provides instructional service to a comprehensive high school or schools that have an average daily attendance in grades 9 to 12, inclusive, during the fiscal year of 350 or less.

A necessary small regional occupational program may apply for a small school regional occupational program service allocation pursuant to this section for any or all of the comprehensive high schools within its boundaries that have an average daily attendance of 350 or less during the fiscal year, and at which instruction is provided by the regional occupational program.

The county superintendents of schools shall annually certify the eligibility of a regional occupational program as a necessary small regional occupational program and annually certify the eligibility of all comprehensive high schools within the boundaries that have been selected by the necessary small regional occupational program to receive small school regional occupational program service allocations.

(b) The Superintendent of Public Instruction shall annually allocate small school regional occupational program service funding, in accordance with the schedule prescribed in this subdivision, for any and all comprehensive high schools that are certified as eligible and are selected in accordance with subdivision (a). Regional occupational programs that do not certify the employment of the minimum number of full-time equivalent certificated employees at each school shall have the total small school regional occupational program service allocation for that school reduced by a pro rata amount, based on the percentage of employee service provided in comparison to the total number of regional occupational program employees required for full funding. Full-time equivalency for purposes of this subdivision shall be equal to six teaching periods of comprehensive high school.

The small school regional occupational program service allocation shall be adjusted annually by the same percentage cost-of-living adjustment applied to other regional occupational center and program revenue limits.

(c) (1) If a regional occupational program applies for funding under this section, the regional occupational program shall certify to the Superintendent of Public Instruction all concurrently enrolled average daily attendance generated during the previous year in each school to which small school regional occupational program service funds were allocated under subdivision (b). The average daily

attendance certified under this subdivision shall be subtracted from the regional occupational program's prior year total allowable average daily attendance, and the remainder shall become the current year allowable regional occupational program average daily attendance for all nonconcurrently enrolled students and concurrently enrolled students from schools not funded under subdivision (b). This calculation shall be completed the year a regional occupational program applies to become a necessary small regional occupational program or the year that the eligible regional occupational program selects any comprehensive high school defined in subdivision (a) to receive a small school regional occupational program service allocation.

(2) In the fiscal year that an eligible regional occupational program selects to remove a certified comprehensive high school from the small school regional occupational program service allocation funding or when the comprehensive high school no longer qualifies under the provisions of subdivision (a), the superintendent shall allocate a sum equal to the average of the prior two years' annual regional occupational program average daily attendance for the comprehensive high school multiplied by either the statewide average revenue limit per average daily attendance or the revenue limit per average daily attendance of the regional occupational program, whichever is greater, to the revenue limit of the eligible regional occupational program.

(3) In addition, the superintendent shall raise the prior year's annual concurrently enrolled average daily attendance for all schools not funded under subdivision (b) of the eligible small school regional occupational program an amount equal to the average of the prior two years' annual regional occupational program average daily attendance for the comprehensive high school. This adjusted allowable average daily attendance shall be the new base upon which growth is calculated for nonconcurrently enrolled students and concurrently enrolled students from high schools not funded under subdivision (b), within an eligible regional occupational program.

(d) Total annual apportionments for regional occupational programs that qualify for funding under this section as necessary small regional occupational programs shall be calculated in accordance with the following formula:

Total small school ROP service allocations to selected comprehensive high schools of 350 or less average daily attendance pursuant to subdivision (b)	+	Reported allowable average daily attendance pursuant to subdivision (c) multiplied by either the statewide average ROP revenue limit or the ROP revenue limit, whichever is greater	=	Total annual state apportionment for a necessary small ROP

(e) Nothing in this section shall be construed to require eligible regional occupational programs to apply for funding under this section.

(f) In fiscal years subsequent to the 1989–90 fiscal year, the prior year's apportionment under this section shall be annually adjusted by the same cost-of-living increase provided to regional occupational programs through the standard apportionment system.

SEC. 133. Section 52333 of the Education Code is repealed.

SEC. 134. Section 52335.25 of the Education Code is repealed.

SEC. 135. Section 52506 of the Education Code is amended to read:

52506. The department shall establish standards including standards of attendance, curriculum, administration, and guidance and counseling service for these classes as a basis for the several apportionments of state funds provided herein for the support of these classes. The Superintendent of Public Instruction shall prepare, distribute, and maintain a detailed handbook for use by the local educational agencies. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

SEC. 136. Section 52523 of the Education Code is amended to read:

52523. Adult education programs, courses, and classes shall not be used to supplant the regular high school curriculum for high school pupils enrolled in adult education. Adult education shall supplement and enrich the high school pupil's educational experiences. Therefore, adult education shall, at a minimum, meet the following criteria:

(a) All programs, courses, and classes conducted as adult education shall be open to adults and listed in the district's catalog of adult education classes provided to the public and shall be under the supervision and jurisdiction of the adult education administrator as determined by the school district governing board. Adults shall have priority over other students for admission to any adult education class if those adults enroll not later than the regular enrollment period for those classes. The enrollment period shall be published in the course catalog. No course required by the school district for high school graduation or necessary for pupils to maintain satisfactory academic progress shall be offered exclusively through the adult education program. An adult for purposes of this section is a person 18 years of age or older or other person who is not concurrently enrolled in a regular high school program.

(b) Each adult education teacher, whether part time or full time, under contract status or in an hourly position, shall be part of the adult school faculty and shall be under the direct supervision of the authorized adult education administrator.

(c) Enrollment of high school pupils shall be voluntary on the part of the pupil taking the class. Prior to enrollment by a high school pupil in an adult education program, class, or course, the pupil shall

have documentation of the counseling session held pursuant to subdivision (b) of Section 52500.1.

(d) Enrollment of a high school pupil in an adult education program, course, or class shall be for sound educational purposes, including, but not limited to, the following:

(1) The adult education program, course, or class is not offered in the regular high school curriculum.

(2) The adult education program, course, or class is needed by the pupil to make up deficient credits for graduation from high school.

(3) The adult education program, course, or class allows the pupil to gain vocational and technical skills, provided the regular high school does not offer a program of vocational and technical education.

(4) The adult education program, course, or class, supplements and enriches the high school pupil's educational experience.

(e) A high school pupil shall not be enrolled for apportionment purposes in an adult education program, course, or class that would be considered any of the following:

(1) Physical education.

(2) Driver's training and education.

(3) Vocal and instrumental music.

(4) Band.

(5) Drama.

(6) Preparation of a school yearbook or school newspaper.

(7) Training for, or participation in, athletic camps, cheerleading or spirit organizations, student government, or extracurricular student clubs.

The Superintendent of Public Instruction shall issue a program advisory that further defines the purposes set forth in subdivision (d) and the courses set forth in subdivision (e). The superintendent is authorized to issue, at any time, rules and regulations instead of the program advisory.

SEC. 137. Section 52616.5 of the Education Code is repealed.

SEC. 138. Section 52902 of the Education Code is amended to read:

52902. The Superintendent of Public Instruction shall do all of the following:

(a) Publish guidelines to assist alternative education and work centers in the development and implementation of these programs.

(b) Train site personnel in the establishment and effective use of prevention and recovery programs.

(c) Establish within the department a clearinghouse for information regarding successful programs and strategies for the identification, prevention, and recovery of school dropouts.

(d) Actively disseminate information regarding the demonstration programs established pursuant to this chapter, to school districts.

(e) Monitor the quality and effectiveness of the programs established pursuant to this article, as set forth in Section 52886.

(f) The State Department of Education shall provide for the evaluation of these programs.

SEC. 139. Section 52903 of the Education Code is amended to read:

52903. A school district that intends to establish an alternative education and work center pursuant to Section 52900 shall be eligible to receive a planning and development grant of up to eight thousand dollars ($8,000). These funds shall be used to develop a program that meets the requirements of Section 52900 including, but not limited to, the following:

(a) Provisions for outreach activities and the recruitment of school dropouts into the program.

(b) A plan that integrates and coordinates the skills and talents of the outreach consultant required under Section 52890.

SEC. 140. Section 52909 of the Education Code is repealed.

SEC. 141. Section 52960 of the Education Code is repealed.

SEC. 142. Section 52963 of the Education Code is repealed.

SEC. 143. Section 52983 of the Education Code is repealed.

SEC. 144. Section 54442 of the Education Code is amended to read:

54442. The State Board of Education shall adopt a state master plan for services to migrant children. The plan shall include provisions for the following:

(a) Instructional activities on a regular and extended year basis shall be designed to identify, diagnose, and provide treatment for academic deficiencies of migrant children. Special emphasis shall be given to oral and written communications, reading and mathematics. Small group or individual instruction and tutorial services shall be provided to assist migrant children to attain normal progress rates in all subject areas. All instructional services shall be provided as supplements to regular programs of instruction provided by the public schools for all children.

(b) Health and welfare services shall be designed to identify, diagnose, and provide treatment for conditions of a physical, including dental, emotional, or environmental, nature which interfere with the learning processes of migrant children. Insofar as possible, existing community resources will be utilized to provide these services.

(c) Preservice and in-service education of professional and nonprofessional personnel shall be planned to prepare school administrators, teachers, aides and other personnel to meet the special needs of migrant children.

(d) Supportive services including transportation, family liaison, and other services necessary to the success of the programs.

(e) Child development activities including, but not limited to, social, sensorimotor, conceptual and language development, and perceptual discrimination activities for migrant infants and pre-kindergarten-aged children too young to participate in instructional services normally provided by the public schools.

(f) The active involvement of parents, teachers, and community representatives in the local implementation of migrant education programs.

SEC. 145. Section 54652 of the Education Code is amended to read:

54652. The Superintendent of Public Instruction shall not include the schools located within a district that has elected not to participate in the Education Improvement Incentive Program in the computations required pursuant to Section 54653, 54654, or 54655.

SEC. 146. Section 54658 of the Education Code is repealed.

SEC. 147. Section 54734 of the Education Code is amended to read:

54734. The Superintendent of Public Instruction shall do all of the following:

(a) Assist school districts and schools, upon request, to design, implement, or evaluate school plans authorized by this article.

(b) Apportion funds in accordance with Article 3 (commencing with Section 52850) of Chapter 12 of Part 28 and this article.

(c) Conduct program quality and fiscal reviews to do all the following:

(1) Ensure that funds allocated pursuant to this article are expended for the purposes intended.

(2) Provide information helpful to schools in improving their programs.

(3) Provide information and technical assistance helpful to schools in improving the school-based pupil motivation and maintenance programs.

(d) Establish an information dissemination repository, including, but not limited to, model programs, instructional strategies, and effective practices for working with high-risk pupils and increasing the pupil retention of schools and school dropout recovery programs. This repository shall be made available to school districts.

(e) Request that school plans submitted pursuant to Article 3 (commencing with Section 52850) of Chapter 12 of Part 28 by school district governing boards be in compliance with this article and any implementing administrative regulations.

SEC. 148. Section 54753 of the Education Code is repealed.

SEC. 149. Section 54753.1 of the Education Code is repealed.

SEC. 150. Section 54761 of the Education Code, as added by Chapter 82 of the Statutes of 1989, is repealed.

SEC. 151. Section 56441.12 of the Education Code is repealed.

SEC. 152. Section 56444 of the Education Code is repealed.

SEC. 153. Section 56446 of the Education Code is amended to read:

56446. (a) The superintendent shall develop a funding formula for the distribution of federal funds under Title II of the Education of the Handicapped Act Amendments of 1986, Public Law 99-457 (20 U.S.C. Secs. 1411, 1412, 1413, and 1419) to local providers. The funding formula shall be developed in consultation with the

Legislative Analyst and the Director of Finance. The funding formula shall include a provision to address planning and development, program startup costs, including assessments and equipment, staff development, rental or leasing of facilities, and transportation. Any carry over funds shall be reported to the superintendent. The federal incentive funds for this program received for individuals with exceptional needs between the ages of three and five years, inclusive, who are not identified as having intensive needs, shall not be included for purposes of subdivision (a) of Section 56712, including additional funds received for these children under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.). These individuals shall not be included in the enrollment counts or computations prescribed by Section 56728.6.

(b) Public special education funding shall not be used to purchase regular preschool services or to purchase any instructional service other than special education and services permitted by this chapter.

SEC. 154. Section 56522 of the Education Code is repealed.

SEC. 155. Section 56830 of the Education Code is amended to read:

56830. The Legislature hereby finds and declares that, since the 1980–81 fiscal year, there have been significant annual deficiencies in special education funding that have created fiscal hardships for many school districts and county offices of education and adversely impacted the quality of services to many individuals with exceptional needs, in abrogation of the objectives set forth in Section 56000.

SEC. 156. Section 56880 of the Education Code is repealed.

SEC. 157. Section 58408 of the Education Code is repealed.

SEC. 158. Section 58410 of the Education Code is repealed.

SEC. 159. Section 58411 of the Education Code is repealed.

SEC. 160. Section 58412 of the Education Code is repealed.

SEC. 161. Section 58560 of the Education Code is repealed.

SEC. 162. Section 58562 of the Education Code is repealed.

SEC. 163. Section 58601 of the Education Code is amended to read:

58601. (a) From the funds appropriated therefor by the Legislature to the department for the purposes of this chapter, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall administer this chapter and make apportionments to school districts to meet the approved expense of the school districts incurred in developing demonstration programs in the intensive instruction in English or language arts, mathematics, history or social science, foreign language, physical education, visual and performing arts, or science, for pupils in grades 6, 7, or 8.

(b) No funding shall be apportioned on or after January 1, 1992, pursuant to this article except pursuant to an application for funding approved by the State Board of Education on or after that date.

SEC. 164. Section 58701 of the Education Code is repealed.

SEC. 165. Section 58702 of the Education Code, as added by

Chapter 643 of the Statutes of 1991, is amended to read:

58702. (a) Any school district that implements the Tutoring and Homework Assistance Program may credit towards its summer school apportionments, computed pursuant to Section 42239, as amended by the annual Budget Act, hours of homework and tutorial assistance provided pursuant to the program described in Section 58700, if the instruction is in core academic areas specified in paragraph (2) of subdivision (d) of Section 42239.

(b) Any school district may claim funding for programs operated pursuant to this chapter if the district has first claimed in regular summer school programs the budgeted funding level of hours based on 7 percent of the district's total enrollment for the prior fiscal year or the budgeted funding level of hours guaranteed in either Section 42239 or the annual Budget Act, if greater than 7 percent.

(c) Funding claimed pursuant to this chapter shall be limited to the amount calculated pursuant to each school district's percentage of enrollment for the prior year and number of hours specified in the annual Budget Act as being available for reallocation of funding appropriated for summer school that is not claimed by school districts.

(d) Each school district that claims funding pursuant to this chapter shall maintain a record, capable of being audited, of the number of hours spent in direct contact with the pupil under the program. A certificated employee of the district shall certify the accuracy of the number of hours utilized to submit a claim for funding pursuant to this chapter prior to the allocation of that funding to the school district.

SEC. 166. Section 58802 of the Education Code is amended to read:

58802. Faculty members providing instruction in specialized secondary programs shall develop model curricula which the Superintendent of Public Instruction shall make available to other school districts in the state.

SEC. 167. Section 60247.5 of the Education Code is repealed.

SEC. 168. Section 60701 of the Education Code is repealed.

SEC. 169. Article 10 (commencing with Section 60730) of Part 33 of the Education Code is repealed.

SEC. 170. Section 62007.5 of the Education Code is repealed.

SEC. 171. Section 64100 of the Education Code is amended to read:

64100. It is the intent of the Legislature that all funding for categorical programs that are funded according to formulas based on indicators of pupils' needs shall be based on district counts of pupils meeting the criteria for the programs. It is further the intent of the Legislature to use the information gained from the reports required by this act to revise and update the funding formulas for categorical programs, as necessary, to ensure that funding is distributed to school districts based on updated indicators of pupils' needs.

SEC. 172. Section 7907 of the Government Code is amended to

read:

7907. For county superintendents of schools:

(a) "Proceeds of taxes" shall be deemed to include subventions received from the state only if those subventions are received for one or more of the following programs:

(1) Educational services provided directly to pupils, including, but not limited to, the services described in subdivision (c) of Section 1981 of, Sections 1904, 2550.2, 2551.3, 8152, 48633, 52570, and 58804 of, and Article 1 (commencing with Section 52300) of Chapter 9 of Part 28 of, the Education Code.

(2) Support services provided to school districts, including, but not limited to, the services described in subdivision (b) of Section 2550 of, and Sections 1510, 2509, 2551, 2554, and 2555 of, the Education Code.

(3) Direct services provided to school districts, as described in subdivision (a) of Section 2550 of the Education Code.

(b) For programs identified in paragraph (1) of subdivision (a), an amount shall be calculated equal to the appropriations made for those programs from the proceeds of taxes for the 1978–79 fiscal year, adjusted for the 1979–80 and 1980–81 fiscal years by the lesser of the change in cost of living or change in California per capita personal income applicable to each year and by the percentage change in average daily attendance in those programs for the 1979–80 and 1980–81 fiscal years.

(c) For all other programs operated by the county superintendent of schools, including, but not limited to, the programs identified in paragraphs (2) and (3) of subdivision (a), an amount shall be calculated equal to the appropriations made for those programs from the proceeds of taxes for the 1978–79 fiscal year, adjusted for the 1979–80 and 1980–81 fiscal years by the lesser of the change in cost of living or change in California per capita personal income for each year and by the percentage change in population (as defined by subdivision (d) of Section 7901) for all the districts in the county for the 1979–80 and 1980–81 fiscal years. The "percentage change in population" for the program identified in paragraph (3) of subdivision (a) shall be, for purposes of this subdivision, the percentage change in direct services average daily attendance as calculated pursuant to sudivision (a) of Section 2550 of the Education Code.

(d) The sum of the amounts calculated in subdivisions (b) and (c) shall be the appropriations limit for the county superintendent for the 1980–81 fiscal year.

(e) For the 1981–82 fiscal year and each year thereafter, the appropriations limit for the prior year shall be adjusted by the appropriate average daily attendance and the lesser of the change in cost of living or California per capita personal income.

(f) For the 1981–82 fiscal year through the 1987–88 fiscal year, state apportionments to county superintendents in excess of the amounts in subdivision (d) or (e) shall not be considered proceeds

of taxes for a county superintendent of schools.

(g) For the 1988–89 fiscal year and each fiscal year thereafter, the state apportionments to county superintendents which shall be considered "proceeds of taxes" for a county superintendent of schools shall be equal to the lesser of the following:

(1) The total amount of state apportionments received for that fiscal year, excluding amounts paid for reimbursement of state mandates in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or of Section 17561 or for reimbursement of court or federal mandates imposed on or after November 6, 1979.

(2) The appropriations limit for the county superintendent for that fiscal year, less the sum of all of the following:

(A) Interest earned on the proceeds of taxes during the current fiscal year.

(B) The 50 percent of miscellaneous funds received during the current fiscal year which are from the proceeds of taxes.

(C) Locally voted taxes received during the current year, such as parcel taxes or square foot taxes, other than for voter-approved bonded debt.

(D) Any other local proceeds of taxes received during the current year, such as excess bond revenues transferred to a district's general fund pursuant to Section 15234 of the Education Code.

(E) Local proceeds of taxes received during the current fiscal year which offset state aid.

(3) Amounts paid for court or federal mandates shall be excluded from the appropriations limit.

SEC. 173. Section 11335 of the Welfare and Institutions Code is repealed.

SEC. 174. Any section of any act enacted by the Legislature during the 1994 calendar year that takes effect on or before January 1, 1995, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section amended or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

CHAPTER 923

An act to amend Sections 203 and 416.80 of the Code of Civil Procedure, to amend Sections 5000.1, 5000.5, 5006, 5008, 5010, 5010.7, 5013, 5018, 5019, 5029, 5091, 5342, 5344, 5363, 5440, 5441, 5442, 15101, 15121, 16062, 18558, 19700, 24903, 39310, 41022, and 84042 of the Education Code, to amend Sections 810.2, 1780, 6253.5, 6254.4, 6547, 6547.2, 7060.5, 12172, 12172.5, 16100.6, 23274, 23353, 23359, 23365, 23374.3, 23374.13, 23559, 23702, 23709, 23713, 23720, 23721, 23722, 24001, 24009, 25210.18a, 25210.23, 26298.10, 26298.12, 26802, 29907.5, 31105.2, 34050, 34450, 34452, 34457, 34458, 34460, 34871, 34882, 34904,

36502, 36503.5, 36503.7, 36812.1 36812.5, 51932, 53327, 53395.21, 54242, 54255, 55603.5, 57132, 57147, 57148, 57149, 57301, 60429, 60700, 61103, 61111, 61113, 61114, 61116, 61222, 61400, 61450, 61451, 71080, 71080.5, 71080.6, 71091.1, 71180, 75030.10, 82047.6, 84200.7, 84305.5, 88001, and 89522 of the Government Code, to amend Sections 6037.4, 6038, 6240.5, 6309.2, 6939.6, 7033.4, 7081, 7120, and 7121 of the Harbors and Navigation Code, to amend Sections 2316, 4716.4, 6461.4, 6484, 6514.1, 6580.1, 6580.2, 6936, 6955.1, 8934.4, 13818, 13825, 13826, 13828, 13843, 13845, 13846, 13848, 13850, 13885, 13886, 13926, 13927, 13962, 20040.4, 20047, 20062, 32002, 32002.34, 32100, 32100.01, 32100.02, 32100.1, 32100.5, 32121, 32320, 32321, 40224, and 40325 of the Health and Safety Code, to amend Section 1180.4 of the Military and Veterans Code, to amend Sections 171b and 403 of the Penal Code, to amend Sections 1865 and 1910 of the Probate Code, to amend Sections 5506.3, 5506.10, 5517.4, 5532, 5539.3, 5539.9, 5545.5, 5781.34, 9029, 9164, 9182, 9184, 9185, 9187, 9314, 26583, and 49015 of the Public Resources Code, to amend Sections 2887, 11643.4, 11828, 11950, 12815.1, 12815.4, 12818, 15762.4, 16461.5, 22229.4, 22557, 22557.5, 24501.5, 24828, 26210.5, 28748, 29161, 29164, 29166, 30740.5, 40235, 40334, 50235, 70235, 90075, 90610, 96410, 98316, 99503, 100043, 101292, 101296, 102204, 103074, 130411, 131108, 180203, 190308, and 240308 of the Public Utilities Code, to amend Sections 2287, 2288, and 18705 of the Revenue and Taxation Code, to amend Sections 5108.1 and 10121 of the Streets and Highways Code, to amend Sections 12944.5, 20527.10, 20896, 21101, 21285, 21555, 21560, 22841, 22970, 30021, 30293.4, 30501, 30520, 30700, 30731, 30830, 30831, 34402.4, 35003.1, 35100, 35106, 35107, 35110, 35179, 35191, 35216, 35233, 35246, 35266, 35520.16, 50780.10, 55184.4, 56018.4, 70041.4, 70071, 70120, 71017, 71163.4, 71262, 71505, 71930.5, 72760, and 74202 of, and to repeal Sections 21588 and 50706 of, the Water Code, and to amend Sections 5357, 5358.3, and 5364 of the Welfare and Institutions Code, relating to elections.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 203 of the Code of Civil Procedure is amended to read:

203. (a) All persons are eligible and qualified to be prospective trial jurors, except the following:

(1) Persons who are not citizens of the United States.

(2) Persons who are less than 18 years of age.

(3) Persons who are not domiciliaries of the State of California, as determined pursuant to Article 2 (commencing with Section 2020) of Chapter 1 of Division 2 of the Elections Code.

(4) Persons who are not residents of the jurisdiction wherein they are summoned to serve.

(5) Persons who have been convicted of malfeasance in office or

a felony, and whose civil rights have not been restored.

(6) Persons who are not possessed of sufficient knowledge of the English language, provided that no person shall be deemed incompetent solely because of the loss of sight or hearing in any degree or other disability which impedes the person's ability to communicate or which impairs or interferes with the person's mobility.

(7) Persons who are serving as grand or trial jurors in any court of this state.

(8) Persons who are the subject of conservatorship.

(b) No person shall be excluded from eligibility for jury service in the State of California, for any reason other than those reasons provided by this section.

SEC. 2. Section 416.80 of the Code of Civil Procedure is amended to read:

416.80. When authorized by Section 11 of the Elections Code, a summons may be served as provided by that section.

SEC. 3. Section 5000.1 of the Education Code is amended to read:

5000.1. (a) Notwithstanding any provision of law to the contrary the governing board of any school district or community college district in the County of San Diego may adopt a resolution requiring its general district election to be held on the same day as the statewide direct primary election, or the day of the statewide general election.

(b) If an election is held pursuant to subdivision (a), and the election is consolidated with another election, the provisions contained in Part 3 (commencing with Section 10400) of Division 10 of the Elections Code shall govern the consolidation, and, if the county elections official is requested to conduct the municipal election, Section 10002 of the Elections Code shall be applicable to that election.

(c) If, pursuant to subdivision (a), a general district election is held on the same day as a statewide election, those district officers whose four-year terms of office would have, prior to the adoption of the resolution, expired on the first Friday in December following the general district election in an odd-numbered year shall instead, either continue in their offices until no later than the fourth Tuesday after the day of the general district election or, at the option of the governing board, cease to hold office prior to the expiration of their four year term of office and upon the qualification of their successors at the time prescribed by the governing board.

SEC. 4. Section 5000.5 of the Education Code is amended to read:

5000.5. (a) (1) Notwithstanding any other provision of law, except as provided under Section 5008, after the initial election of governing board members in any school district, or members of a county board of education, the election of governing board members for the district or members of the county board of education may, upon the adoption of an appropriate resolution by the governing board or the county board of education, respectively, be established

to regularly occur on the same day upon which a primary, municipal, or general election is held. If a school district is located in more than one county, the district may not consolidate an election if any county in which the district is located denies the request for consolidation.

(2) In the event of consolidation, the election of governing board members or members of the county board of education shall be conducted in accordance with all applicable procedural requirements of the Elections Code pertaining to that primary, municipal, or general election, and shall thereafter occur in consolidation with that election.

(b) (1) The resolution of the governing board or county board of education shall be adopted and submitted to the board of supervisors, for purposes of subdivision (a), no later than 240 days prior to the date of the currently scheduled election of the district or for the members of the county board of education.

(2) The final date for the submission of the resolution by the governing board or county board of education to the board of supervisors is not subject to waiver.

(c) The board of supervisors shall notify all school districts and the county board of education located in the county of the receipt of the resolution to consolidate and shall request input from each district on the effect of consolidation.

(d) (1) The board of supervisors, within 60 days from the date of submission, shall approve the resolution unless it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled. Prior to the adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors shall each obtain from the elections official a report on the cost effectiveness of the proposed action.

(2) Public notices of the proceedings in which the resolution is to be considered for adoption shall be made pursuant to Section 25151 of the Government Code.

(e) Within 30 days after the approval of the resolution by the board of supervisors, the elections official shall notify all registered voters of the districts affected by the consolidation of the approval of the resolution by the board of supervisors. The notice shall be delivered by mail and at the expense of the school district or if applicable, the county board of education.

(f) An election day established pursuant to subdivision (a) shall be prescribed to occur not less than one month, nor more than 12 months, subsequent to the election day prescribed in subdivision (a) of Section 5000 or pursuant to Section 1007, as appropriate. As used in this subdivision, "12 months" means the period from the election day prescribed in subdivision (a) of Section 5000 or pursuant to Section 1007, as appropriate, to the first Tuesday after the first Monday in the 12th month subsequent to that day, inclusive.

(g) In the event that the election day for a school district governing board or county board of education is established pursuant to subdivision (a), the term of office of all then incumbent members

of that governing board or county board of education shall be extended accordingly.

(h) (1) If a board of supervisors approves the resolution pursuant to subdivision (d), the school district governing board election shall be conducted on the date specified by the board of supervisors, in accordance with subdivision (a), unless the approval is later rescinded by the board of supervisors.

(2) If the date of a school district governing board election is changed pursuant to this section, at least one election shall be held before the resolution, as approved by the board of supervisors, may be subsequently repealed or amended.

(i) This section shall not apply to the County of San Diego, pursuant to Section 5000.1, and Section 4106 of the Elections Code.

SEC. 5. Section 5006 of the Education Code is amended to read:

5006. When an elementary, unified, high school, community college district or community college district trustee area, includes within its boundaries the same territory, or territory that is in part the same, as a city whose charter requires a regular city election to be held in each odd-numbered year, the consolidated governing board member elections of the elementary, unified, high school, community college district or community college district trustee area may be held on a Tuesday in the odd-numbered year and may be further consolidated with the city election pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code. The consolidation shall be effected by the officer conducting the election having jurisdiction of the elementary, unified, high school or community college district upon the written request of the governing board of the elementary, unified, high school or community college district, with the written consent of the legislative body of the city and the written consents of all of the governing boards of the districts whose governing board member elections are affected. This section shall be controlling in the event of any conflict with a prior order of the county superintendent of schools made pursuant to Section 5340.

When a high school district, community college district, or community college trustee area election is consolidated with that of a city pursuant to this section, or when a high school district, community college district, or community college trustee area is governed by the charter of a city providing for elections on dates other than those specified in this code, and, in either case, such high school district, community college district, or community college trustee area also has within its boundaries component districts whose elections would otherwise be held on the date specified in this code, then the elections in the component districts may be consolidated with the election in the high school district, community college district, or community college trustee area. The consolidation shall be effected by the officer conducting the election having jurisdiction of the component districts upon the written request of the governing boards thereof and with the written consent of the governing boards

of the districts whose governing board member elections are to be consolidated with those of the component districts.

SEC. 6. Section 5008 of the Education Code is amended to read:

5008. (a) Notwithstanding any other provision of law, upon the recommendation of the county superintendent of schools and with the approval of the county board of supervisors, the election of governing board members of school districts whose boundaries are coterminous with the boundaries of the county, shall be consolidated with the November general elections held in the county pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

In that case, the terms of members of the governing board elected in the general election pursuant to this section shall begin at noon on the first Monday after the first day in January following the general election and shall end at noon on the first Monday after the first day in January four years thereafter.

In that case, the terms of members of the governing board expiring on March 31 of any odd-numbered year next succeeding any general election, shall expire at noon on the first Monday after the first day in January following such general election.

(b) When the term of an incumbent expires at midnight March 31 of an odd-numbered year and no successor has been elected because of subdivision (a), the members of the board whose terms have not expired shall appoint a successor to serve until a successor is elected and qualified pursuant to subdivision (a).

SEC. 7. Section 5010 of the Education Code is amended to read:

5010. When a community college district or community college district trustee area includes within its boundaries the same territory, or territory that is in part the same, as a chartered city that holds a city election on a date other than one of the regular election dates established by Division 1 (commencing with Section 1000) of the Elections Code for the conduct of city elections in odd-numbered years, the governing board member elections of the community college district or community college district trustee area may be consolidated with the city election pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code. The consolidation shall be effected by the officer conducting the election having jurisdiction of the community college district upon the written request of the governing board of the community college district, with the written consent of the legislative body of the city. This section shall be controlling in the event of any conflict with a prior order of the county superintendent of schools made pursuant to Section 5340.

Successors to incumbents holding office upon adoption of this section, who in the absence of this section would have been elected at a different time, shall be chosen for office at the election nearest the time the terms of office of that incumbents would have otherwise expired. If an incumbent's term of office is extended because of this section, he or she shall hold office until a successor qualifies therefor,

but in no event shall the term of an incumbent be extended to exceed four years.

SEC. 8. Section 5010.7 of the Education Code is amended to read:

5010.7. (a) (1) Notwithstanding any other provision of law, a community college district may, by resolution, require that its district governing board member elections be held on the same day as the statewide general election. If a community college district is located in more than one county, the district may not consolidate an election if any county in which the district is located denies the request for consolidation.

(2) In the event of consolidation, the election of the governing board member or members shall be conducted in accordance with all applicable procedural requirements of the Elections Code pertaining to that statewide general election or municipal election, and shall thereafter occur in consolidation with that election.

(b) (1) The resolution of the community college district governing board shall be adopted and submitted to the board of supervisors, for purposes of subdivision (a), no later than 240 days prior to the date of the currently scheduled election for the governing board members of the community college district.

(2) The final date for the submission of the resolution by the community college district governing board to the board of supervisors is not subject to waiver.

(c) The board of supervisors shall notify all community college districts located in the county of the receipts of the resolution to consolidate and shall request input from each district on the effect of consolidation.

(d) (1) The board of supervisors, within 60 days from the date of submission, shall approve the resolution unless it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled.

Prior to the adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors shall each obtain from the elections official a report on the cost-effectiveness of the proposed action.

(2) Public notices of the proceedings in which the resolution is to be considered for adoption shall be made pursuant to Section 25151 of the Government Code.

(e) (1) Within 30 days after the approval of the resolution by the board of supervisors, the elections official shall notify all registered voters of the districts affected by the consolidation of the approval of the resolution by the board of supervisors.

(2) The notice required by subdivision (e) shall be delivered by mail and at the expense of the community college district.

(f) An election day established pursuant to subdivision (a) shall be prescribed to occur not less than one month, nor more than 12 months, subsequent to the election day prescribed in subdivision (a) of Section 5000. As used in this subdivision, "12 months" means the period from the election day prescribed in subdivision (a) of Section

5000 to the first Tuesday after the first Monday in the 12th month subsequent to that day, inclusive.

(g) If, pursuant to subdivision (a), a district governing board member election is held on the same day as a statewide general election, those district governing board members whose four-year terms of office would have, prior to the adoption of the resolution, expired prior to that election shall, instead, continue in their offices until successors are elected and qualified.

(h) (1) If a board of supervisors approves the resolution pursuant to subdivision (d), the school district governing board election shall be conducted on the date specified by the board of supervisors, in accordance with subdivision (a), unless the approval is later rescinded by the board of supervisors.

(2) If the date of a district governing board member election is changed pursuant to this section, at least one election shall be held before the resolution, as approved by the board of supervisors, may be subsequently repealed or amended.

(i) This section shall not apply to the County of San Diego, pursuant to Section 5000.1, and Section 4106 of the Elections Code.

SEC. 9. Section 5013 of the Education Code is amended to read:

5013. The form of ballot for governing board member elections shall be governed by Chapter 2 (commencing with Section 13100) of Division 13 of the Elections Code.

SEC. 10. Section 5018 of the Education Code is amended to read:

5018. Any elementary school district having a governing board of three members may, and any elementary school district having a governing board of three members whose average daily attendance during the preceding fiscal year was 300 or more shall do either of the following:

(a) By its own action determine that the number of members of the governing board shall be increased to five, in which case two additional members shall be elected at an upcoming regular election date, as specified in Section 1000 of the Elections Code, determined by the board.

(b) Request the county superintendent of schools having jurisdiction to submit the question of whether the number of members of the governing board shall be increased to five to the voters of the elementary school district at an upcoming regular election date, as specified in Section 1000 of the Elections Code, determined by the county superintendent of schools. At the same election, two additional members shall be elected to take office if the number of governing board members is increased.

Candidates for the two additional offices shall state in the declarations of candidacy filed for the election that the candidates are candidates for the two additional offices separately from the other offices to be filled in the election and shall clearly indicate to the voters that they may vote for two of the candidates to take office if the voters approve the proposed increase in the number of board members.

If the voters at the election do not approve the increase in membership of the governing board, the same question may be submitted to the voters at subsequent governing board member elections. Requests to the county superintendent to submit the question to the voters of a district shall be filed with him or her by the governing board of the district no later than 100 days prior to the election.

If, pursuant to either subdivision (a) or subdivision (b), two additional governing board members are authorized and elected, the one receiving the higher number of votes shall hold office for a term commencing the first day of the month following the election until the first Friday in December in the second succeeding year following the election in which a regular governing board election is held, and the other one shall hold office for a term commencing the first day of the month following the election until the first Friday in December in the first succeeding year following the election in which a regular governing board election is held. Thereafter the governing board shall be composed of five members elected in the same manner and for the same term as governing boards having five members.

SEC. 11. Section 5019 of the Education Code is amended to read:

5019. Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district the county committee on school district organization shall have the power to establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030.

Any proposal of this type may be initiated by the county committee or made to the county committee either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, or by a petition signed by 2 percent, or 250, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections Code.

When a proposal of this type is made, the county committee shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee shall approve or disapprove the proposal.

If the county committee approves the rearrangement of the boundaries of trustee areas for a particular district, the rearrangement of the trustee areas shall be effectuated for the next

district election occurring at least 120 days after its approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the elections official within 60 days of the proposal's adoption by the county committee.

SEC. 12. Section 5029 of the Education Code is amended to read:

5029. Notwithstanding Section 5028, when a community college trustee ward boundary line falls upon an election precinct boundary line, and the election precinct boundary line is changed pursuant to Chapter 3 (commencing with Section 12200) of Division 12 of the Elections Code, the governing board of the district shall, at least 120 days prior to any trustee election, change the ward boundary line to conform to precinct boundary lines, where possible.

SEC. 13. Section 5091 of the Education Code is amended to read:

5091. (a) Whenever a vacancy occurs, or whenever a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board shall, within 60 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. A governing board member may not defer the effective date of his or her resignation for more than 60 days after he or she files the resignation with the county superintendent of schools.

In the event that a governing board fails to make a provisional appointment or order an election within the prescribed 60-day period as required by this section, the county superintendent of schools shall call an election to fill the vacancy.

(b) When an election is ordered, it shall be held on the next regular election date provided pursuant to Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code not less than 130 days after the occurrence of the vacancy or after the written resignation is filed with the county superintendent of schools.

(c) (1) If a provisional appointment is made within the 60-day period, the registered voters of the district may, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy. A petition shall be deemed to bear a sufficient number of signatures if signed by at least the number of registered voters of the district equal to 1½ percent of the number of registered voters of the district at the time of the last regular election for governing board members, or 25 registered voters, whichever is greater. However, in districts with registered voters of less than 2,000 persons, a petition shall be deemed to bear a sufficient number of signatures if signed by at least 5 percent of the number of registered voters of the district at the time of the last regular election for governing board members.

(2) The petition shall be submitted to the county superintendent of schools having jurisdiction who shall have 30 days to verify the signatures. If the petition is determined to be legally sufficient by the

county superintendent of schools, the provisional appointment is terminated, and the county superintendent of schools shall call a special election to be conducted no later than the 120th day after the determination. However, if a regular election date, as defined in Section 1000 of the Elections Code, occurs between the 120th day and the 150th day following the determination, the county superintendent of schools may call the special election to be conducted on the regular election date.

(d) A provisional appointment made pursuant to subdivision (a) confers all powers and duties of a governing board member upon the appointee immediately following his or her appointment.

(e) A person appointed to fill a vacancy shall hold office only until the next regularly scheduled election for district governing board members, whereupon an election shall be held to fill the vacancy for the remainder of the unexpired term. A person elected at an election to fill the vacancy shall hold office for the remainder of the term in which the vacancy occurs or will occur.

(f) (1) Whenever a petition calling for a special election is circulated, the petition shall meet all of the following requirements:

(A) The petition shall contain the estimate of the elections official of the cost of conducting the special election.

(B) The name and residence address of at least one, but not more than five, of the proponents of the petition shall appear on the petition, each of which proponents shall be a registered voter of the school district or community college district, as applicable.

(C) None of the text or other language of the petition shall appear in less than six-point type.

(D) The petition shall be prepared and circulated in conformity with Sections 100 and 104 of the Elections Code.

(2) If any of the requirements of this subdivision are not met as to any petition calling for a special election, the county superintendent of schools shall not verify the signatures, nor shall any further action be taken with respect to the petition.

(3) No person shall permit the list of names on petitions prescribed by this section to be used for any purpose other than qualification of the petition for the purpose of holding an election pursuant to this section.

(4) The petition filed with the county superintendent of schools shall be subject to the restrictions in Section 6253.5 of the Government Code.

(g) Elections held pursuant to subdivisions (b) and (c) shall be conducted in as nearly the same manner as practicable as other governing board member elections.

SEC. 15. Section 5342 of the Education Code is amended to read:

5342. Whenever any school district election or community college district election is scheduled to be held on the same day, in the same territory, or in territory that is in part the same, as an election or elections called to be held by any other district, city, county, or other political subdivision, the district election may be

either completely or partially consolidated with the election or elections pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

The consolidation may be effected by the officer conducting the election upon receipt of resolutions from two or more political subdivisions whose boundaries are totally or partially the same territory calling elections to be held on the same day if the resolutions are delivered to the officer conducting the election at least 88 days prior to the date of the election.

SEC. 16. Section 5344 of the Education Code is amended to read:

5344. Within the territory affected by the order of consolidation the election precincts, polling places, voting booths and polling hours shall, in every case, be the same and there shall be only one set of election officers in each of the precincts. When the returns of elections consolidated pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code are required to be canvassed by different canvassing boards, the elections shall be conducted separately in the same manner as if they had not been consolidated, except as provided in this section.

SEC. 17. Section 5363 of the Education Code is amended to read:

5363. Except where the procedure prescribed by Section 5362 is utilized, the elections official responsible for the conduct of a governing board member election shall cause formal notice of the election to be published pursuant to Section 12115 of the Elections Code.

SEC. 18. Section 5440 of the Education Code is amended to read:

5440. The provisions of Division 16 (commencing with Section 16000) of the Elections Code, relating to election contests shall apply to school district elections.

SEC. 19. Section 5441 of the Education Code is amended to read:

5441. The returns of any school district or community college district election received by the county elections official having jurisdiction shall, after the date of the declaration and certification of the final results of the election, be disposed of as follows:

(a) The sealed envelope containing the voted ballots, including ballots rejected for improper markings, shall be kept by the county superintendent unopened and unaltered for six months. If a contest or criminal prosecution is not commenced within the six-months' period as provided in Division 16 (commencing with Section 16000) of the Elections Code, he or she shall destroy the envelope, or have it destroyed, without its being opened or its contents examined. This paragraph also applies to absent ballots and identification envelopes.

(b) The envelope containing spoiled, canceled, and defaced unused ballots shall remain unopened in the custody of the county superintendent and shall be held and disposed of as is the envelope provided for in paragraph (a) of this section.

(c) The envelope containing the tally sheet, challenge sheet, challenge list, assisted voter list, and affidavits of election officers assisting voters, shall be disposed of in the same manner, but the

contents of this envelope may be made available to voters for inspection at any time following commencement of the official canvass of votes.

SEC. 20. Section 5442 of the Education Code is amended to read:

5442. Recount of votes in any school district or community college district shall be governed by Chapter 12 (commencing with Section 15600) of Division 15 of the Elections Code.

SEC. 21. Section 15101 of the Education Code is amended to read:

15101. Notwithstanding any provision of law to the contrary, no election shall be held pursuant to this chapter within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as the statewide election, subject to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

SEC. 22. Section 15121 of the Education Code is amended to read:

15121. Any election called pursuant to Sections 15100 to 15141, inclusive, and Sections 15142 to 15261, inclusive, may be consolidated with any other election pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

SEC. 23. Section 16062 of the Education Code is amended to read:

16062. The election by a school district upon the acceptance, expenditure, and repayment of an apportionment prescribed by Section 16058 may be called and held either before or after the making of an apportionment except that no such election shall be held within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as that statewide election, subject to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

SEC. 24. Section 18558 of the Education Code is amended to read:

18558. In the event a petition, as set forth in Section 18557, is filed, the board of supervisors shall not grant the request without first submitting the question to the voters in the same manner and with the same effect as provided for a referendum by the electors of a district pursuant to Section 9340 of the Elections Code.

SEC. 25. Section 19700 of the Education Code is amended to read:

19700. (a) Except as otherwise provided in this article, the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) shall govern and control the conduct of elections pursuant to this chapter. Elections shall be held biennially in the district on the same day as the school district election as specified in Section 5000 in the odd-numbered years.

(b) The trustees shall hold office for the term of four years beginning on the first Friday in December next succeeding their appointment or election.

(c) The members of the first board of library trustees appointed or elected in a district shall, at their first meeting, so classify themselves by lot that their terms shall expire: two on the first Friday in December of the first odd-numbered calendar year next succeeding their appointment or election, and three on the first

Friday in December of the second succeeding odd-numbered calendar year.

SEC. 26. Section 24903 of the Education Code is amended to read:

24903. The election may be consolidated with any other election pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

SEC. 27. Section 39310 of the Education Code is amended to read:

39310. An election held pursuant to Section 39308, 39311, or 39311.5 shall be held in conjunction with either a statewide primary or general election, or an election date specified in Section 1000 of the Elections Code.

SEC. 28. Section 41022 of the Education Code is amended to read:

41022. Except as provided in this section, any election held for the purpose permitting a school district to exceed the expenditure of school district funds fixed by the Constitution or by the statutes of the state shall be called, held, and conducted as nearly as possible as are elections for the issuance of school district bonds.

The notice of election shall contain only the following:

(a) The time and place or places of holding the election.

(b) The names of the officers appointed to conduct the election.

(c) The hours during the day in which the polls will be open.

(d) The amount by which it is proposed to increase the expenditures of the district during the school year.

(e) The total amount of proposed expenditures of the district, including the proposed increase, for the school year.

The ballots used at the election shall contain the following language: "Shall the total authorized expenditures of the district be increased from _____ (naming the sum) to _____ (naming the sum) for the school year _____ (naming the school year)?"

The hours during which the polls at the election are open shall be fixed in accordance with Section 14212 of the Elections Code.

SEC. 29. Section 84042 of the Education Code is amended to read:

84042. Except as provided in this section, any election held for the purpose of permitting a community college district to exceed the expenditure of district funds fixed by the Constitution or by the statutes of the state shall be called, held, and conducted as nearly as possible as are elections for the issuance of district bonds.

The notice of election shall contain only the following:

(a) The time and place or places of holding the election.

(b) The names of the officers appointed to conduct the election.

(c) The hours during the day in which the polls will be open.

(d) The amount by which it is proposed to increase the expenditures of the district during the school year.

(e) The total amount of proposed expenditures of the district, including the proposed increase, for the school year.

The ballots used at the election shall contain the following language: "Shall the total authorized expenditures of the district be increased from _____ (naming the sum) to _____ (naming the sum) for the school year _____ (naming the school year)?"

The hours during which the polls at the election are open shall be fixed in accordance with Section 14212 of the Elections Code.

SEC. 30. Section 810.2 of the Government Code is amended to read:

810.2. "Employee" includes an officer, judicial officer as defined in Section 327 of the Elections Code, employee, or servant, whether or not compensated, but does not include an independent contractor.

SEC. 31. Section 1780 of the Government Code is amended to read:

1780. (a) Notwithstanding any other provision of law, a vacancy in any elective office on the governing board of a special district, other than those specified in Section 1781, shall be filled as provided in this section. The remaining district board members may fill the vacancy by appointment. The person appointed shall hold office until the next district general election that is scheduled 130 or more days after the effective date of the vacancy, unless an election is also held on the same date for the purpose of electing a director to serve a full term in the same office to which the person was appointed, in which event the person appointed to the vacancy shall fill the balance of the unexpired term of his or her predecessor. Appointments pursuant to this subdivision shall be made within a period of 60 days immediately subsequent to the effective date of the vacancy and a notice of the vacancy shall be posted in three or more conspicuous places in the district at least 15 days before the appointment is made. In lieu of making an appointment the remaining members of the board may within 60 days of the vacancy call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the vacancy occurs.

(b) If the vacancy is not filled by the district board as specified, or if the board has not called for an election within 60 days of the vacancy, the city council of the city in which the district is wholly located, or if the district is not wholly located within a city, the board of supervisors of the county representing the larger portion of the district area in which the election to fill the vacancy will be held, may fill the vacancy within 90 days of the vacancy, or the city council or county supervisors may order the district to call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 130 or more days after the vacancy occurs.

(c) (1) If within 90 days of the vacancy the remaining members of the board or the appropriate board of supervisors or city council have not filled the vacancy and no election has been called for, the district shall call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code

that is 130 or more days after the vacancy occurs.

(2) If the number of remaining members of the board falls below a quorum, at the request of the district secretary, or a remaining board member, the board of supervisors or the city council may waive the 60-day period provided in subdivision (a) and appoint immediately to fill the vacancy as provided in subdivision (a), or may call an election to fill the vacancy. The election shall be held on the next available election date provided by Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is held 130 or more days after the vacancy occurs.

The board of supervisors or the city council shall only fill enough vacancies to provide the board with a quorum.

(d) Persons appointed to fill a vacancy shall hold office until the next district general election and thereafter until the person elected at that election to fill the vacancy has been qualified, but persons elected to fill a vacancy shall hold office for the unexpired balance of the term of office.

SEC. 32. Section 6253.5 of the Government Code is amended to read:

6253.5. Notwithstanding Sections 6252 and 6253, statewide, county, city, and district initiative, referendum, and recall petitions, petitions circulated pursuant to Section 5091 of the Education Code, petitions for the reorganization of school districts submitted pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, petitions for the reorganization of community college districts submitted pursuant to Part 46 (commencing with Section 74000) of the Education Code and all memoranda prepared by the county elections officials in the examination of the petitions indicating which registered voters have signed particular petitions shall not be deemed to be public records and shall not be open to inspection except by the public officer or public employees who have the duty of receiving, examining or preserving the petitions or who are responsible for the preparation of that memoranda and, if the petition is found to be insufficient, by the proponents of the petition and the representatives of the proponents as may be designated by the proponents in writing in order to determine which signatures were disqualified and the reasons therefor. However, the Attorney General, the Secretary of State, the Fair Political Practices Commission, a district attorney, a school district or a community college district attorney, and a city attorney shall be permitted to examine the material upon approval of the appropriate superior court.

If the proponents of a petition are permitted to examine the petition and memoranda, the examination shall commence not later than 21 days after certification of insufficiency.

(a) As used in this section, "petition" shall mean any petition to which a registered voter has affixed his or her signature.

(b) As used in this section "proponents of the petition" means the following:

(1) For statewide initiative and referendum measures, the person or persons who submit a draft of a petition proposing the measure to the Attorney General with a request that he or she prepare a title and summary of the chief purpose and points of the proposed measure.

(2) For other initiative and referenda on measures, the person or persons who publish a notice of intention to circulate petitions, or, where publication is not required, who file petitions with the elections official.

(3) For recall measures, the person or persons defined in Section 343 of the Elections Code.

(4) For petitions circulated pursuant to Section 5091 of the Education Code, the person or persons having charge of the petition who submit the petition to the county superintendent of schools.

(5) For petitions circulated pursuant to Article 1 (commencing with Section 35700) of Chapter 4 of Part 21 of the Education Code, the person or persons designated as chief petitioners under Section 35701 of the Education Code.

(6) For petitions circulated pursuant to Part 46 (commencing with Section 74000) of the Education Code, the person or persons designated as chief petitioners under Sections 74102, 74133, and 74152 of the Education Code.

SEC. 33. Section 6254.4 of the Government Code is amended to read:

6254.4. (a) The home address, telephone number, occupation, precinct number, and prior registration information shown on the voter registration card for the following persons is confidential if the person requests confidentiality of that information at the time of registration or reregistration and shall not be disclosed to any person except pursuant to Section 2194 of the Elections Code:

(1) Any active or retired judge, magistrate, or court commissioner.

(2) Any active or retired district attorney, assistant district attorney, or deputy district attorney.

(3) Any active or retired public defender or assistant public defender or public defender investigator.

(4) Any active or retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

(5) The spouse or children of any person included in paragraphs (1) to (4), inclusive, who are living with that person.

(b) Confidentiality granted under this section shall apply only to records prepared or generated on or after the date that the voter is granted confidentiality.

(c) A person who requests confidentiality of the information specified in subdivision (a) shall register or reregister to vote by means of a confidential affidavit of registration form which shall be prescribed by the Secretary of State and which shall be attested to under penalty of perjury by the affiant that he or she is a person entitled to confidential treatment pursuant to this section.

(d) For purposes of this section, "home address" means only street address and does not include an individual's city or post office address.

SEC. 34. Section 6547 of the Government Code is amended to read:

6547. The power of the entity to issue revenue bonds is additional to the powers common to the parties to the joint powers agreement, but shall not be exercised until authorized by the parties to that agreement. However, in the case of the issuance of revenue bonds by a fair and exhibition authority this authorization shall not be required. In the case of the issuance of revenue bonds by an entity created pursuant to this chapter to construct bridges and major thoroughfares, as referred to in Section 66484.3, the power of the entity to issue revenue bonds shall be exercised by a resolution adopted by a majority vote of the governing body of the entity. However, no member of the entity may vote on the question of bond issuance unless the member has been authorized to vote on that particular question by previous resolution of the public agency the member represents. In the case of the issuance of revenue bonds by an entity created pursuant to this chapter to carry out a consolidated transportation corridor project, as referred to in Section 6546.13, the power of the entity to issue revenue bonds shall be exercised by a resolution adopted by a majority vote of the governing body of the entity. In the case of a project for the generation or transmission of electric energy or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, or a project for an intermodal container transfer facility, or a project for the construction of bridges and major thoroughfares pursuant to Section 66484.3, this power shall include the power to issue notes for the purpose of financing studies, the acquisition of options, permits, and other preliminary costs to be incurred prior to the undertaking of the construction or acquisition of a project, and for the purpose of providing temporary financing of costs of construction or acquisition of a project. These notes may be issued at public or private sale, and may be renewed from time to time, and the principal and interest with respect thereto may be made payable from the revenues of the entity unless paid from the proceeds of revenue bonds.

Every local agency shall make any authorization, as permitted under the first sentence of this section, by ordinance, unless otherwise prescribed in this section. Except as provided in this section, the ordinance shall describe in general terms the project, or projects, to be funded by the revenue bonds, the maximum amount of the bonds proposed to be issued, and the anticipated sources of revenue to redeem the bonds. In the case of a project for the generation or transmission of electric energy or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, or a project for an intermodal container transfer facility, or a project for the construction of bridges and major thoroughfares pursuant to Section 66484.3, the ordinance shall

describe in general terms the project or the studies or other preliminary costs therefor to be funded by the revenue bonds or notes, the estimate of the maximum amount of bonds to be issued for the project or the studies or other preliminary costs, and the anticipated sources of revenue or other funds to pay the principal of and interest on the bonds or notes. In the case of a project for a consolidated transportation corridor pursuant to Section 6546.13, the authorizing resolution shall describe in general terms, the project or projects to be funded by the revenue bonds, the maximum amount of bonds proposed to be issued for the project or projects, and the anticipated sources of revenue or other funds to pay the principal of and interest on the bonds. However, the statement of the estimated maximum amount of the bonds or notes shall not be deemed to prevent the authorization by the ordinance of the issuance of bonds or notes by the entity in amounts which may exceed the estimate without further authorization under the ordinance if and to the extent the additional bonds or notes shall be required to complete the financing of the project or the studies or other preliminary costs. Each such ordinance shall state that it is subject to the provisions for referendum prescribed by Section 9142 of the Elections Code.

A separate authorization shall be required for each separate bond issue proposed by the entity, except that, in the case of a project for the generation or transmission of electric energy or a project for the disposal, treatment, or conversion to energy and reusable materials of solid waste, or a project for an intermodal container transfer facility, or a project for the construction of bridges and major thoroughfares pursuant to Section 66484.3, a single authorization shall be sufficient for bonds which may be issued in installments from time to time for a project or the costs of studies or other preliminary costs therefor which shall be identified in the authorization.

The requirement of an ordinance and the right to referendum thereon shall not apply to the issuance of revenue bonds if, prior to March 4, 1971, one or more local or public agencies shall have taken formal action to implement any one or more projects to be acquired or constructed pursuant to a joint powers agreement. Formal action to implement any one or more projects shall include, but not be limited to, any of the following:

(a) The incurring of liability for a substantial portion of an architectural or engineering contract or other contract relating to a project.

(b) The acquisition of land or improvements for the project.

(c) The making of a substantial contribution toward the project.

Notwithstanding the requirement that parties to a joint powers agreement authorize the issuance of revenue bonds, in the case of a project that consists of the generation or transmission of electric energy financed in whole or in part by the issuance of revenue bonds, only those local agencies which contract to make payments to be applied to the payment of the revenue bonds shall be required to authorize the issuance of the revenue bonds.

Any authorizations required by this section for the issuance of revenue bonds to construct bridges and major thoroughfares projects pursuant to Section 50029 or 66484.3 may be by ordinance or resolution.

SEC. 35. Section 6547.2 of the Government Code is amended to read:

6547.2. Notice of the enactment of an ordinance subject to referendum under Section 6547 shall be published after adoption as required by Section 6040.1 within 15 days after the adoption of the ordinance.

If a local agency does not otherwise have statutory power to enact an ordinance pursuant to Section 6547, the governing body of the local agency is hereby empowered to introduce and enact the ordinance at any regular or adjourned regular meeting by the approving votes of a majority of all of its members. If ordinances of a local agency are not otherwise subject to referendum, then (1) the governing body of the local agency may refer any ordinance enacted pursuant to Section 6547 to the electors of the local agency in the same manner as the board of supervisors of a county may refer county questions pursuant to Section 9140 of the Elections Code, and (2) the electors of the local agency shall have the right to petition for referendum on the ordinance in the same manner and subject to the same rules as are set forth in Sections 9141 to 9145, inclusive, of the Elections Code, except that all computations referred to in those sections and officers of the county mentioned in those sections shall be construed to refer to comparable computations and officers of the local agency. If the governing board of a local agency is an elected board the electors of the local agency for the purposes of this section shall be the electors of the territory entitled to vote at elections for members of the governing board. If a local agency does not have an elected governing board, the electors residing within the boundaries of the local agency who would be qualified to vote for candidates for Governor at any gubernatorial election shall be the electors of the local agency for the purposes of this section.

SEC. 36. Section 7060.5 of the Government Code is amended to read:

7060.5. The actions authorized by Sections 7060.2 and 7060.4 may be taken by regulation adopted after public notice and hearing by a public body of a public entity, if the members of the body have been elected by the voters of the public entity. The regulation shall be subject to referendum in the manner prescribed by law for the ordinances of the legislative body of the public entity except that:

(a) The decision to repeal the regulation or to submit it to the voters shall be made by the public body which adopted the regulation.

(b) The regulation shall become effective upon adoption by the public body of the public entity and shall remain in effect until a majority of the voters voting on the issue vote against the regulation, notwithstanding Section 9235, 9237, or 9241 of the Elections Code or

any other law.

SEC. 37. Section 12172 of the Government Code is amended to read:

12172. The Secretary of State shall, upon the request of the proponents of an initiative measure which is to be submitted to the voters of the state, review the provisions of the initiative measure after it is prepared prior to its circulation. In conducting the review, the Secretary of State shall do both of the following:

(a) Analyze and comment on the provisions of the measure with respect to form and language clarity.

(b) Request and obtain a statement of fiscal impact from the Legislative Analyst.

The Legislative Analyst shall furnish the Secretary of State with a statement of fiscal impact with respect to the initiative measure within 25 working days after being requested to do so by the Secretary of State pursuant to subdivision (b).

In the preparation of the statement of fiscal impact, the Legislative Analyst may use the fiscal estimate or the opinion prepared pursuant to Section 9005 of the Elections Code.

The review performed pursuant to this section shall be for the purpose of suggestion only and shall not have any binding effect on the proponents of the initiative measure.

SEC. 38. Section 12172.5 of the Government Code is amended to read:

12172.5. The Secretary of State is the chief elections officer of the state, and shall administer the provisions of the Elections Code. The Secretary of State shall see that elections are efficiently conducted and that state election laws are enforced. The Secretary of State may require elections officers to make reports concerning elections in their jurisdictions.

If, at any time, the Secretary of State concludes that state election laws are not being enforced, the Secretary of State shall call the violation to the attention of the district attorney of the county or to the Attorney General. In these instances, the Secretary of State may assist the county elections officer in discharging his or her duties.

In order to determine whether an elections law violation has occurred the Secretary of State may examine voted, unvoted, spoiled and canceled ballots, vote-counting computer programs, absent voter envelopes and applications, and supplies referred to in Section 15082 of the Elections Code. The Secretary of State may also examine any other records of elections officials as he or she finds necessary in making his or her determination, subject to the restrictions set forth in Section 6253.5.

The Secretary of State may adopt regulations to assure the uniform application and administration of state election laws.

SEC. 39. Section 16100.6 of the Government Code is amended to read:

16100.6. Out of the amount appropriated to the Controller by Section 16100, the Controller shall pay each year to each local

government on claims submitted 45 days after the effective date of the addition of this section to the code and on September 1 of each year thereafter the actual increased cost to that local government caused by Section 8106 of the Elections Code. The Controller may reduce any claim that appears to be excessive or unreasonable and shall adjust the payment for the current fiscal year for any underpayment or overpayment in a prior fiscal year. The Controller may audit the records of any local public agency to verify actual cost.

SEC. 40. Section 23274 of the Government Code is amended to read:

23274. The elections official shall cause a ballot pamphlet concerning the proposed boundary change to be printed and mailed to each qualified elector in the territory proposed to be transferred.

The ballot pamphlet shall contain the following in the order prescribed:

(a) An impartial analysis of the proposed boundary change prepared by the commission.

(b) A summary of the commission's report on fiscal impact and financial viability.

(c) A summary of the commission's terms and conditions.

(d) The argument for boundary change.

(e) The argument against boundary change.

The elections official shall mail a ballot pamphlet to each qualified elector at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 41. Section 23353 of the Government Code is amended to read:

23353. The notice of election shall:

(a) State distinctly the propositions to be submitted.

(b) State the names of the affected county or counties.

(c) State the date of the election.

(d) Designate the election precincts and places at which the polls will be open as established by the board of each affected county.

(e) Instruct the voters as to the methods and procedures of voting in the election.

(f) Request the submission of written arguments for and written arguments against the creation of the proposed county.

(g) Include a statement that the board of supervisors of an affected county or any member or members of such board authorized by the board, any city council of a city within an affected county or any member or members of such council authorized by the council, any qualified elector entitled to vote at the election, any bona fide association of citizens, or any combination of qualified electors and associations may submit and file written arguments with the elections official of the principal county for printing and distribution in the ballot pamphlet, in accordance with Section 9163 of the Elections Code.

(h) Include a statement that only one argument for and one

argument against shall be selected and printed in the ballot.

(i) Include a statement that arguments shall not exceed 500 words in length and shall be accompanied by at least one and not more than three signatures.

(j) Include a description of the boundaries of the proposed county.

SEC. 42. Section 23359 of the Government Code is amended to read:

23359. The elections official shall cause a ballot pamphlet concerning the proposed county formation to be printed and mailed to each qualified elector of each affected county.

The ballot pamphlet shall contain the following in the order prescribed:

(a) An impartial analysis of the creation of the proposed county prepared by the commission.

(b) A summary of the commission's report on fiscal impact and financial viability.

(c) A summary of the commission's terms and conditions.

(d) The argument for creation of the proposed county.

(e) The argument against creation of the proposed county.

The elections official shall mail a ballot pamphlet to each qualified elector at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 43. Section 23365 of the Government Code is amended to read:

23365. The elections official of the principal county shall furnish to the officers of each precinct the supplies and equipment as provided for in Sections 14105 and 14110 of the Elections Code. The elections official of each other affected county from which territory is proposed to be taken for the proposed county shall provide to the officers of each precinct the indexes of registration for the precincts of the proposed county within their respective county. In addition, the elections official may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures.

SEC. 44. Section 23374.3 of the Government Code is amended to read:

23374.3. The content of the notice of election for the election to select the county officers for the approved county and the location of the county seat in the approved county shall be determined by the board of supervisors of the principal county. The notice of election shall include a statement that any city council in a city within the approved county or any member or members of the council authorized by the council, any qualified elector entitled to vote at the election, any bona fide association of citizens, or any combination of qualified electors and associations may submit and file written arguments with the elections official of the principal county for printing and distribution in the ballot pamphlet, in accordance with

Section 9163 of the Elections Code.

SEC. 45. Section 23374.13 of the Government Code is amended to read:

23374.13. The elections official of the principal county shall furnish to the officers of each precinct in the approved county the supplies and equipment as provided for in Sections 14105 and 14110 of the Elections Code. The elections official of each other affected county shall provide to the officers of each precinct the indexes of registration for the precincts of the approved county within their respective county. In addition, the elections official may, with the approval of the board of supervisors, furnish the original books of affidavits of registration or other material necessary to verify signatures.

SEC. 46. Section 23559 of the Government Code is amended to read:

23559. The elections official of the principal county shall cause a ballot pamphlet concerning the proposed consolidation to be printed and mailed to each qualified elector of each affected county.

The ballot pamphlet shall contain the following in the order prescribed:

(a) An impartial analysis of the proposed consolidation prepared by the commission.

(b) A summary of the commission's report on fiscal impact of the proposed consolidation.

(c) A summary of the commission's terms and conditions.

(d) The names of the persons to be voted for to fill the county offices designated by the commission.

(e) The argument for consolidation.

(f) The argument against consolidation.

The elections official shall mail a ballot pamphlet to each qualified elector at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 47. Section 23702 of the Government Code is amended to read:

23702. Petitions to propose or revise a charter shall be subject to Article 1 (commencing with Section 9100) of Chapter 2 of Division 9 of the Elections Code.

SEC. 48. Section 23709 of the Government Code is amended to read:

23709. The county elections official shall cause the complete text of the proposed charter or revised charter to be printed. A copy of the proposed charter shall be made available to any voter upon request.

The impartial analysis prepared pursuant to Section 9160 of the Elections Code shall include a statement notifying voters that they may call the elections official's office and request that a copy of the proposed or revised charter be mailed to them at no cost.

SEC. 49. Section 23713 of the Government Code is amended to

read:

23713. Three copies of the complete text of a charter proposal or of any revised, amended, or repealed section ratified by the electors of a county shall be certified and authenticated by the chairperson and clerk of the governing body and attested by the county elections official, setting forth the submission of the charter to the electors of the county, and its ratification by them. One copy shall be recorded in the office of the recorder of the county and then shall be filed in the office of the county elections official.

The county elections official shall submit the second copy to the Secretary of State with the following:

(a) Certified copies of all publications and notices required of the county by this chapter or by the laws of this state in connection with an election to propose or revise a county charter.

(b) Certified copies of any arguments for or against the charter proposal or revision that were mailed to voters pursuant to Section 9162 of the Elections Code.

(c) A certified abstract of the vote at the election at which the charter proposal or revision was approved by the voters.

SEC. 50. Section 23720 of the Government Code is amended to read:

23720. (a) A county charter may be amended by proposals submitted by the governing body or by a petition signed by 10 percent of the qualified electors of the county, computed upon the total number of votes cast in the county for all candidates for Governor at the last general election at which a Governor was elected, filed in the office of the county elections official, petitioning the governing body to submit a proposed amendment or amendments to the charter of the county to the qualified electors of the county, which amendment or amendments are set forth in full in the petition.

(b) A county charter may be repealed by proposals submitted by the governing body or by a petition signed by 10 percent of the qualified electors of the county computed upon the total number of votes cast in the county for all candidates for Governor at the last general election at which a Governor was elected. The petition, petitioning the governing body to submit the question of charter repeal to the qualified electors of the county, shall be filed in the office of the county elections official.

(c) Petitions to amend or repeal a county charter shall be subject to Article 1 (commencing with Section 9100) of Chapter 2 of Division 9 of the Elections Code.

SEC. 51. Section 23721 of the Government Code is amended to read:

23721. The petition shall forthwith be examined and certified by the county elections official as provided in Article 1 (commencing with Section 9100) of Chapter 2 of Division 9 of the Elections Code.

SEC. 52. Section 23722 of the Government Code is amended to read:

23722. Upon the presentation of a petition, or upon its own submission of a proposal to amend or repeal the charter, the governing body shall submit the amendment or amendments proposed or the question of the repeal of the charter to the eligible registered voters of the county at a special election held on the next established election date not less than 88 days after the presentation of the petition, or submission of the proposal. In submitting the question of charter repeal or amendment, any alternative article or proposition may be presented for the choice of the voters, and may be voted on separately without prejudice to others.

The county elections official shall cause the complete text of the proposed amendment or amendments to be printed. A copy of the proposed amendment or amendments shall be made available to any voter upon request.

The impartial analysis prepared pursuant to Section 9160 of the Elections Code shall include a statement notifying voters that they may call the county elections official's office and request that a copy of the proposed amendment or amendments to the charter be mailed to them at no cost.

SEC. 53. Section 24001 of the Government Code is amended to read:

24001. Except as otherwise provided in Sections 27550.1 and 27641.1 or in this section, or in Section 21123 or 34711 of the Water Code, or in any landowner voting district, as defined in paragraph (9) of subdivision (b) of Section 10500 of the Elections Code, a person is not eligible to a county or district office, unless he or she is a registered voter of the county or district in which the duties of the office are to be exercised at the time that nomination papers are issued to the person or at the time of the appointment of the person.

The board of supervisors or any other legally constituted appointing authority in a county or district may, if it finds that the best interests of the county or district will be served, waive the requirements of this section for an appointed county or district office.

SEC. 54. Section 24009 of the Government Code is amended to read:

24009. (a) Except as provided in subdivision (b), the county officers to be elected by the people are the treasurer, county clerk, auditor, sheriff, tax collector, district attorney, recorder, assessor, public administrator, and coroner.

(b) Any county office that is required to be elective may become an appointive office pursuant to this subdivision. In order to change an office from elective to appointive, a proposal shall be presented to the voters of the county and approved by a majority of the votes cast on the proposition. A proposal shall be submitted to the voters by the county board of supervisors or it may be submitted to the voters pursuant to the qualification of an initiative petition as provided in Chapter 2 (commencing with Section 9100) of Division 9 of the Elections Code. Any county office changed from elective to

appointive in accordance with this subdivision may be changed back from appointive to elective in the same manner.

SEC. 55. Section 25210.18a of the Government Code is amended to read:

25210.18a. Any resolution adopted pursuant to Section 25210.18 declaring a county service area established subject to confirmation by the voters upon the question thereof shall do all of the following:

(a) Call, provide for and give notice of a special election upon the question.

(b) Fix a date of election.

(c) Provide for the question to be submitted to the voters.

The election shall be held and conducted by the county and the ballots canvassed in accordance with Article 1 (commencing with Section 9100) of Chapter 2 of Division 9 of the Elections Code.

After canvass of returns of an election on the question of establishment of a county service area, the board of supervisors shall adopt a resolution either (1) confirming the prior declaration of establishment of the area and finally establishing the area, if a majority of the votes cast upon the question are in favor of establishment of the area, or (2) determining the prior declaration of establishment defeated by failure to receive the required vote, in which case the county services found by the board to be extended county services shall not thereafter be provided to the area from general funds of the county.

Any resolution adopted pursuant to this section establishing a county service area shall not be subject to Article 2.5 (commencing with Section 25210.21).

Upon adoption pursuant to this section of a resolution finally establishing an area, the area is established for all purposes subject only to compliance with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5.

SEC. 56. Section 25210.23 of the Government Code is amended to read:

25210.23. Article 1 (commencing with Section 9100) of Chapter 2 of Division 9 of the Elections Code, relating to the form of petitions, the duties of the county elections official, and the manner of holding elections, when an ordinance is proposed by initiative petition, govern the procedure on resolutions against which a protest is filed.

SEC. 57. Section 26298.10 of the Government Code is amended to read:

26298.10. (a) The actual wording of the proposition on any short form of ballot card, label, or other device, regardless of the system of voting used, shall read as follows:

"ADULT AND JUVENILE DETENTION FACILITIES AND COURTHOUSE FACILITIES—ORANGE COUNTY REGIONAL JUSTICE FACILITIES COMMISSION To construct, furnish, acquire, maintain, and operate adult and juvenile detention facilities and courthouse facilities in the county, this proposition authorizes the Orange County Regional Justice Facilities Commission to adopt a one-half of 1 percent sales tax solely for adult and juvenile detention facilities and courthouse facilities purposes." In approving this proposition the voters are also approving an appropriations limit for the Orange County Regional Justice Facilities Commission.	YES NO	

(b) The sample ballot to be mailed to the voters, under Section 13303 of the Elections Code, shall be the full proposition as set forth in the ordinance calling for the measure to be voted upon at an election.

SEC. 58. Section 26298.12 of the Government Code is amended to read:

26298.12. (a) The commission may, as part of the same ballot proposition to approve the imposition of a retail transactions and use tax, seek authorization to issue bonds payable solely from the proceeds of the retail transactions and use tax.

(b) The actual wording of the proposition on any short form of ballot card, label, or other device, regardless of the system of voting used, shall read as follows:

"ADULT AND JUVENILE DETENTION FACILITIES AND COURTHOUSE FACILITIES—ORANGE COUNTY REGIONAL JUSTICE FACILITIES COMMISSION To construct, furnish, acquire, maintain, and operate adult and juvenile detention facilities and courthouse facilities in the county, this proposition authorizes the Orange County Regional Justice Facilities Commission to adopt a one-half of 1 percent sales tax solely for adult and juvenile detention facilities and courthouse facilities purposes and/or to issue bonds payable from the proceeds of that sales tax." In approving this proposition the voters are also approving an appropriations limit for the Orange County Regional Justice Facilities Commission.	YES NO	

(c) The sample ballot to be mailed to the voters, under Section 13303 of the Elections Code, shall be the full proposition as set forth in the ordinance calling for the measure to be voted upon at an election.

SEC. 59. Section 26802 of the Government Code is amended to read:

26802. Except as provided by law, the county elections official shall register as voters any electors that apply for registration and shall perform any other duties required of him or her by the Elections Code. In those counties in which a registrar of voters office has been established, the registrar of voters shall discharge all duties vested by law in the county elections official which duties relate to and are a part of election procedure.

SEC. 60. Section 29907.5 of the Government Code is amended to read:

29907.5. Article 3 (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code, relating to arguments concerning county measures, are applicable to this chapter.

SEC. 61. Section 31105.2 of the Government Code is amended to read:

31105.2. (a) Any ordinance adopting a civil service system that was, prior to the effective date of this section, submitted to a vote of the qualified electors of the county at a general or special election and received the affirmative vote of a majority of the electors voting on the proposition for the approval of the ordinance, and all ordinances amending the ordinance, are hereby validated and confirmed and shall have the full legal effect of ordinances adopted by the board of supervisors and approved by the electors in the manner required by law and complying in every respect with laws

relating to the adoption and approval of those ordinances, notwithstanding any defect, irregularity, omission or ministerial error in the adoption or approval thereof.

(b) Any ordinance or ordinances repealing and adopting a civil service system that was, prior to the effective date of this subdivision, submitted to a vote of the qualified electors of the county at a general or special election and received the affirmative vote of a majority of the electors voting on the proposition for the approval of the ordinance or ordinances, and all ordinances amending that ordinance, are hereby validated and confirmed and shall have the full legal effect of ordinances adopted by the board of supervisors and approved by the electors in the manner required by law and complying in every respect with laws relating to the repealing, adoption, and approval of those ordinances, notwithstanding any defect, irregularity, omission or ministerial error in the adoption or approval thereof, including, but not limited to, the failure of the county elections official to mail to the voters official matter prescribed in Chapter 2 (commencing with Section 9100) of Division 9 of the Elections Code.

SEC. 62. Section 34050 of the Government Code is amended to read:

34050. Elections in cities organized pursuant to Division 2 (commencing with Section 34400), or its predecessors, shall be held pursuant to Chapter 3 (commencing with Section 9200) of Division 9 of the Elections Code, except as otherwise specifically provided.

SEC. 63. Section 34450 of the Government Code is amended to read:

34450. Any city or city and county may enact, amend, or repeal a charter for its own government according to this article or Article 3 (commencing with Section 9255) of Chapter 3 of Division 9 of the Elections Code.

SEC. 64. Section 34452 of the Government Code is amended to read:

34452. (a) An election for choosing charter commissioners may be called by a majority vote of the governing body of a city or city and county, or on presentation of a petition signed by not less than 15 percent of the registered voters of the city or city and county. The petition shall be verified by the authority having charge of the registration records of the city or city and county and the expenses of the verification shall be provided by the governing body thereof. The governing body shall call an election pursuant to Sections 1000 and 10403 of the Elections Code.

(b) If any vacancy arises in a charter commission established for a city or city and county pursuant to this chapter, the vacancy shall be filled by an appointment by the mayor of the city or city and county.

SEC. 65. Section 34457 of the Government Code is amended to read:

34457. The proposed charter shall be submitted to the voters of

the city or city and county at either a special election called for that purpose or at any established municipal election date or at any established election date pursuant to Section 1000 of the Elections Code, provided there are at least 88 days before the election.

SEC. 66. Section 34458 of the Government Code is amended to read:

34458. As an alternative to the procedure provided for in Sections 34450 to 34457, inclusive, the governing body of any city or city and county, on its own motion may propose or cause to be proposed, amend or cause to be amended, or repeal or cause to be repealed, a charter and may submit the proposal for the adoption, or the amendments or repeal thereof, to the voters at either a special election called for that purpose or at any established municipal election date or at any established election date pursuant to Section 1000 of the Elections Code, provided there are at least 88 days before the election.

SEC. 67. Section 34460 of the Government Code is amended to read:

34460. Three copies of the complete text of a charter proposal or of any amended or repealed section ratified by the voters of a city or city and county shall be certified and authenticated by the chairperson and the clerk of the governing body and attested by the city clerk, setting forth the submission of the charter to the voters of the city, and its ratification by them. One copy shall be filed with the recorder of the county in which the city is located, and one in the archives of the city. In the case of a city and county, one copy shall be filed with the recorder thereof, and one in the archives of the city and county.

The third copy shall be submitted to the Secretary of State with the following:

(a) Certified copies of all publications and notices required of the city by this chapter or by the laws of this state in connection with the calling of an election to propose, amend, or repeal a city charter.

(b) Certified copies of any arguments for or against the charter proposal, amendment, or repeal which were mailed to voters pursuant to Section 9281 of the Elections Code.

(c) A certified abstract of the vote at the election at which the charter proposal, amendment, or repeal was approved by the voters.

SEC. 68. Section 34871 of the Government Code is amended to read:

34871. At any municipal election, or special election held for that purpose, the legislative body may submit to the registered voters an ordinance providing for the election of members of the legislative body in any of the following ways:

(a) By districts in five, seven, or nine districts.

(b) From districts in five, seven, or nine districts.

(c) By districts in four, six, or eight districts, with an elective mayor pursuant to Article 5 (commencing with Section 34900).

(d) From districts in four, six, or eight districts, with an elective

mayor pursuant to Article 5 (commencing with Section 34900).

The term "by districts" as used in this article shall mean election of members of the legislative body by voters of the district alone. The term "from districts" shall mean election of members of the legislative body who are residents of the district from which they are elected by the voters of the entire city. "Geographical area making up the district" shall in the case of elections by district mean the district, and in the case of elections from districts shall mean the entire city except with respect to the residence requirements imposed by Section 34882.

That ordinance may also be qualified for the ballot by means of an initiative measure in accordance with Chapter 3 (commencing with Section 9200) of Division 9 of the Elections Code.

SEC. 69. Section 34882 of the Government Code is amended to read:

34882. A person is not eligible to hold office as a member of a municipal legislative body unless he or she is otherwise qualified, resides in the district and both resided in the geographical area making up the district from which he or she is elected and was a registered voter of the city at the time nomination papers are issued to the candidate as provided for in Section 10227 of the Elections Code.

SEC. 70. Section 34904 of the Government Code is amended to read:

34904. A person is not eligible to hold office as mayor unless he or she is at the time of assuming that office an elector of the city, and was a registered voter of the city at the time nomination papers are issued to the candidate as provided for in Section 10227 of the Elections Code.

SEC. 71. Section 36502 of the Government Code is amended to read:

36502. A person is not eligible to hold office as council member, city clerk, or city treasurer unless he or she is at the time of assuming that office an elector of the city, and was a registered voter of the city at the time nomination papers are issued to the candidate as provided for in Section 10227 of the Elections Code.

If, during his or her term of office, he or she moves his or her place of residence outside of the city limits or ceases to be an elector of the city, his or her office shall immediately become vacant.

SEC. 72. Section 36503.5 of the Government Code is amended to read:

36503.5. (a) (1) A city council may enact an ordinance requiring its general municipal election to be held on the same day as the statewide direct primary election, the day of the statewide general election, or on the day of school district elections, as set forth in Section 1302 of the Elections Code. Any ordinance adopted pursuant to this subdivision shall become operative upon the approval of the board of supervisors. An ordinance shall be approved by the board of supervisors unless the ballot style, voting equipment, or computer

capability is such that additional elections or materials cannot be handled. Prior to adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors shall each obtain from the elections official a report on the cost-effectiveness of the proposed action.

(2) A city, by itself or in concert with other cities, may purchase or otherwise contribute to the purchase of elections equipment, including, but not limited to, a computer for the purposes of conducting a consolidated election when the equipment shall be owned by the county.

(b) As the result of the adoption of an ordinance pursuant to this section, no term of office shall be increased or decreased by more than 12 months. As used in this subdivision, "12 months" means the period between the day upon which the term of office would otherwise have commenced and the first Tuesday after the second Monday in the 12th month before or after that day, inclusive.

(c) If an election is held pursuant to subdivision (a), and the election is consolidated with another election, Part 3 (commencing with Section 10400) of Division 10, except Section 10403, of the Elections Code shall govern the consolidation, and, if the county elections official is requested to conduct the municipal election, Section 10002 of the Elections Code shall be applicable to that election.

(d) If, pursuant to subdivision (a), a general municipal election is held on the same day as a statewide election, those city officers whose terms of office would have, prior to the adoption of the ordinance, expired on the Tuesday succeeding the second Tuesday in April of an even-numbered year, shall, instead, continue in their offices until no later than the fourth Tuesday after the day of the general municipal election, and until their successors are elected and qualified.

(e) Within 30 days after the ordinance becomes operative pursuant to subdivision (a), the city elections official shall cause a notice to be mailed to all registered voters informing the voters of the change in the election date. The notice shall also inform the voters that as a result in the change in the election date, the terms of office of the elected city officeholders will be changed.

(f) If a city adopts an ordinance pursuant to subdivision (a), the municipal election following the adoption of the ordinance and each municipal election thereafter shall be conducted on the date specified by the city council, in accordance with subdivision (a), unless the ordinance in question is later repealed by the city council.

(g) If the date of a general municipal election is changed pursuant to this section, at least one election shall be held before the ordinance, as approved by the board of supervisors, may be subsequently repealed or amended.

SEC. 73. Section 36503.7 of the Government Code is amended to read:

36503.7. If the date of a general municipal election is changed

pursuant to Section 36503.5, or by charter, notwithstanding Section 10220 of the Elections Code, the period to file as a candidate for the general municipal election shall be the same as the nomination period to file as a candidate for the election in which the general municipal election is consolidated.

SEC. 74. Section 36812.1 of the Government Code is amended to read:

36812.1. If a written statement to contest the election of a city officer pursuant to Sections 16400 and 16401 of the Elections Code is filed with the city clerk prior to the commencement of any proceeding by the city council, pursuant to Section 36812, the authority of the city council to commence those proceedings shall be suspended for the applicable period of time specified in Section 16401 of the Elections Code for the filing of the statement of contest.

Upon the expiration of the period of time, the city council may proceed pursuant to Section 36812 if no proceedings have been instituted pursuant to Article 1 (commencing with Section 16500) of Chapter 6 of Division 16 of the Elections Code, or those proceedings are terminated without judgment being rendered by the court.

SEC. 75. Section 36812.5 of the Government Code is amended to read:

36812.5. A city may defend any person elected to the city council or to the office of city clerk or city treasurer in any election contest instituted for any of the causes set forth in subdivisions (a), (d), or (e) of Section 16100 of the Elections Code.

SEC. 76. Section 51932 of the Government Code is amended to read:

51932. Except as otherwise provided in this article, the election, if a special election, shall be conducted as other special elections in the county or, if a general election, as other general elections in the county. Notwithstanding any other provision of law, the analysis of the proposed charter, prepared pursuant to Section 9160 of the Elections Code, shall not exceed 1,500 words.

SEC. 77. Section 53327 of the Government Code is amended to read:

53327. (a) Except as otherwise provided in this chapter, the provisions of law regulating elections of the local agency that calls an election pursuant to this chapter, insofar as they may be applicable, shall govern all elections conducted pursuant to this chapter. Except as provided in subdivision (b), there shall be prepared and included in the ballot material provided to each voter an impartial analysis pursuant to Section 9160, 9280, or 9500 of the Elections Code, and arguments and rebuttals, if any, pursuant to Sections 9162 to 9167, inclusive, and 9190 of the Elections Code or pursuant to Sections 9281 to 9287, inclusive, and 9295 of the Elections Code, or pursuant to Sections 9501 to 9507, inclusive, of the Elections Code, or pursuant to other provisions of law applicable to other special districts as appropriate.

(b) If the vote is to be by the landowners of the proposed district,

analysis and arguments may be waived with the unanimous consent of all the landowners and shall be so stated in the order for the election. When the local agency is a school district and the vote is to be by the landowners of the proposed district, the legislative body of the school district may authorize an official of the district to conduct the election, including preparation of analysis and compilation of arguments.

SEC. 78. Section 53395.21 of the Government Code is amended to read:

53395.21. (a) Except as otherwise provided in this chapter, the provisions of law regulating elections of the local agency that calls an election pursuant to this chapter, insofar as they may be applicable, shall govern all elections conducted pursuant to this chapter. Except as provided in subdivision (b), there shall be prepared and included in the ballot material provided to each voter, an impartial analysis pursuant to Section 9160 or 9280 of the Elections Code, arguments and rebuttals, if any, pursuant to Sections 9162 to 9167, inclusive, and 9190 of the Elections Code or pursuant to Sections 9281 to 9287, inclusive, and 9295 of the Elections Code.

(b) If the vote is to be by the landowners of the proposed district, analysis and arguments may be waived with the unanimous consent of all the landowners and shall be so stated in the order for the election.

SEC. 79. Section 54242 of the Government Code is amended to read:

54242. Any ordinance subject to referendum under Section 54241 shall be published after adoption as required by law for ordinances of the local agency generally, or, if there is no publication requirement applicable to the ordinance, then once pursuant to the provisions of Sections 6040 through 6044 within 15 days after the adoption of the ordinance.

If a local agency does not otherwise have statutory power to enact an ordinance pursuant to Section 54241, the governing body of the local agency is authorized to introduce and enact the ordinance at any regular or adjourned regular meeting by the approving votes of a majority of all of its members. If ordinances of a local agency are not otherwise subject to referendum, then (1) the governing body of the local agency may refer any ordinance enacted pursuant to Section 54241 to the electors of the local agency in the same manner as the board of supervisors of a county may refer county questions pursuant to Section 9140 of the Elections Code, and (2) the electors of the local agency shall have the right to petition for referendum on the ordinance in the same manner and subject to the same rules as are set forth in Sections 9141 to 9145, inclusive, of the Elections Code, except that all computations referred to in those sections and officers of the county mentioned in those sections shall be construed to refer to comparable computations and officers of the local agency. If the governing board of a local agency is an elected board the electors of the local agency for the purposes of this section shall be the electors

of the territory entitled to vote at elections for members of the governing board. If a local agency does not have an elected governing board, the electors residing within the boundaries of the local agency who would be qualified to vote for candidates for Governor at any gubernatorial election shall be the electors of the local agency for the purposes of this section.

SEC. 80. Section 54255 of the Government Code is amended to read:

54255. (a) Any ordinance subject to referendum under Section 54253 shall be published after adoption as required by law for ordinances of the local agency generally, or, if there is no requirement applicable to the ordinance, then once pursuant to Sections 6040 to 6044, inclusive, within 15 days after the adoption of the ordinance.

(b) If a local agency does not otherwise have statutory power to enact an ordinance pursuant to Section 54253, the governing body of the local agency may introduce and enact an ordinance at any regular or adjourned regular meeting by a majority vote of all of its members. If ordinances of a local agency are not otherwise subject to referendum, then the local agency may proceed as follows:

(1) The governing body of the local agency may refer any ordinance enacted pursuant to Section 54253 to the electors of the local agency in the same manner as the board of supervisors of a county may refer county questions pursuant to Section 9140 of the Elections Code.

(2) The electors of the local agency shall have the right to petition for referendum on the ordinance in the same manner and subject to the same rules as are set forth in Sections 9141 to 9145, inclusive, of the Elections Code, except that all computations referred to in those sections and officers of the county mentioned in those sections shall be construed to refer to comparable computations and officers of the local agency.

(c) If the governing board of a local agency is an elected board, the electors of the local agency for the purposes of this section shall be the electors of the territory entitled to vote at elections for members of the governing board or in the case of county service area, the electors within the county service area. If a local agency does not have an elected governing board, the electors residing within the boundaries of the local agency who would be qualified to vote for candidates for Governor at any gubernatorial election shall be the electors of the local agency for the purposes of this section.

SEC. 81. Section 55603.5 of the Government Code is amended to read:

55603.5. Every contract between a county and a city that provides for the furnishing of fire protection services by the county to the city, except a contract to render assistance whenever a fire occurs within the limits of a city of when it cannot be adequately handled by the fire department of the city, shall be for a term of at least one year.

Neither the county nor the city shall have the power to abrogate that contract during the term of the contract. The contractual relationship between the county and the city may, however, be terminated by the voters of either the county or the city.

The board of supervisors or the governing body of the city may, at any time, call and conduct a special election in the county or the city, as the case may be, for the purpose of submitting to the voters of the county or the city a proposition for the termination of the contractual relationship between the county and the city.

An election in the county shall be called and conducted in the same manner as other special elections in the county. An election in the city shall be called and conducted in the same manner as other special elections in the city, except that no notice of the election, other than the notice prescribed by Section 12110 of the Elections Code, need be given and neither sample ballots nor polling place notices need be mailed for the election.

If at an election in the county or an election in the city, a majority of the voters voting vote in favor of the termination of the contractual relationship between the county and the city, the contractual relationship shall be terminated on the first day of July next succeeding the date of the election, if the election is held on or before February 1 of the fiscal year of the county. If the election is held subsequent to February 1 of the fiscal year, the contractual relationship shall be terminated on June 30 of the fiscal year next succeeding.

SEC. 82. Section 57132 of the Government Code is amended to read:

57132. The election on the question of the change of organization or reorganization shall be called and held on the next regular election date occurring at least 88 days after the date upon which the resolution calling the election was adopted. This section does not apply to any election conducted solely by mailed ballot pursuant to Chapter 1 (commencing with Section 4000) of Division 4 of the Elections Code.

SEC. 83. Section 57147 of the Government Code is amended to read:

57147. Section 9167 of the Elections Code applies to the preparation and submittal of rebuttal arguments.

SEC. 84. Section 57148 of the Government Code is amended to read:

57148. (a) The clerk shall cause a ballot pamphlet concerning the proposal to be printed and mailed to each voter entitled to vote on the question.

The ballot pamphlet shall contain all of the following information in the order prescribed:

(1) The impartial analysis of the proposition prepared by the commission.

(2) One argument for the proposal, if any.

(3) One rebuttal to the argument for the proposal, if any.

(4) One argument against the proposal, if any.

(5) One rebuttal to the argument against the proposal, if any.

A copy of the complete text of the proposition shall be made available by the clerk, to any voter upon request.

(b) The clerk shall mail a ballot pamphlet to each voter entitled to vote in the election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 85. Section 57149 of the Government Code is amended to read:

57149. The canvass of ballots cast at any election held pursuant to this division shall be conducted pursuant to Sections 15300 to 15309, inclusive, of the Elections Code. The clerk shall immediately, upon the completion of any canvass, report the results to both the conducting authority and the executive officer of the local agency formation commission.

SEC. 86. Section 57301 of the Government Code is amended to read:

57301. If at any time between each decennial federal census, a city annexes or detaches territory or consolidates with another city, the city council of the city annexing or detaching the territory or the city council of the successor city, shall reexamine the boundaries of its council districts, if any, after the first census is taken or after the population estimates are obtained, following the annexation, detachment, or consolidation.

If, upon reexamination, the city council finds that the population of any council districts have varied so that the districts no longer meet the criteria specified in Section 21601 of the Elections Code, the city council shall, within 60 days after the census is taken, or population estimate received, by ordinance or resolution, adjust the boundaries of any or all of the council districts of the city so that the districts are as nearly equal in population as may be possible.

SEC. 87. Section 60429 of the Government Code is amended to read:

60429. "Voter" means a person included within the meaning of that term, as defined by Section 359 of the Elections Code, who is also a resident of the district or proposed district and who is an occupant of a dwelling unit either as a member of a cooperative housing project or as the owner of a condominium housing unit.

SEC. 88. Section 60700 of the Government Code is amended to read:

60700. Except as otherwise provided in this division, the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) shall govern all elections in the district.

SEC. 89. Section 61103 of the Government Code is amended to read:

61103. The petition shall be signed by not less than 10 percent of the registered voters residing in the area to be included in the

district, as determined by the local agency formation commission pursuant to subdivision (h) of Section 56375. Sections 100 and 104 of the Elections Code shall govern the signing of the petition and the format of the petition.

SEC. 90. Section 61111 of the Government Code is amended to read:

61111. (a) Notwithstanding Section 61110, if the board of supervisors of the principal county finds that the petition filed with the executive officer of the local agency formation commission pursuant to Section 61104 has been signed by not less than 80 percent of the registered voters residing within the area to be included within the district, the board may dispense with an election, adopt the resolution required pursuant to Section 61117, and designate the members of the board of directors pursuant to Chapter 3 (commencing with Section 61120).

(b) Notwithstanding Section 61110, if the local agency formation commission approves a consolidation or reorganization pursuant to Section 56839 that results in the formation of a district without an election, the commission may designate the members of the board of directors from the membership of the board of directors of any of the consolidated or reorganized districts pursuant to subdivision (k) of Section 56844. The terms of office of the directors shall be determined pursuant to Section 10505 of the Elections Code.

SEC. 91. Section 61113 of the Government Code is amended to read:

61113. (a) The chief petitioners, the agency filing the resolution, or any member or members of the board of supervisors authorized by the board, any individual voter or bona fide association of citizens entitled to vote on the district formation proposition, or any combination of these voters and associations of citizens, may file with the elections official of the principal county a written argument for or a written argument against the proposed district formation.

Arguments shall not exceed 300 words in length. Based on the time reasonably necessary to prepare and print the text of the proposition, analysis, arguments, and sample ballots and to permit the 10-day public examination period as provided in Section 9190 of the Elections Code for the particular election, the elections official of the principal county shall fix and determine a reasonable date prior to the election after which no arguments for or against the measure may be submitted for printing and distribution to the voters pursuant to Section 61114. Notice of the date fixed shall be published by the elections official pursuant to Section 6061. Arguments may be changed until and including the date fixed by the elections official.

(b) If more than one argument for or more than one argument against the proposed district formation is filed with the elections official within the time prescribed, the elections official shall select one of the arguments for printing and distribution to the voters.

In selecting the arguments, the elections official shall give preference and priority, in the order named, to the arguments of the

following:

(1) Chief petitioners or the agency filing the resolution.

(2) The board of supervisors or any member or members of the board authorized by the board.

(3) Individual voters or bona fide associations of citizens or a combination of these voters and associations.

(c) When the elections official of the principal county has selected the arguments for and against the measure which will be printed and distributed to the voters, he or she shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the elections official of the principal county not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut and shall be titled "Rebuttal to Argument in Favor of Measure (or Proposition) _____" or "Rebuttal to Argument Against Measure (or Proposition) _____," the blank spaces being filled in only with the letter or number, if any, that designates the measure. Words used in the title shall not be counted when determining the length of any rebuttal argument.

SEC. 92. Section 61114 of the Government Code is amended to read:

61114. The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code. Section 9190 of the Elections Code shall apply to the materials required to be contained in the ballot pamphlet.

The ballot pamphlet shall contain the following, in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition submitted by the executive officer of the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The rebuttal to the argument in favor of the proposed district formation.

(e) The argument against the proposed district formation.

(f) The rebuttal to the argument against the proposed district formation.

SEC. 93. Section 61116 of the Government Code is amended to read:

61116. (a) Except as otherwise provided in this chapter, the formation election and the election of members of the district board, if any, shall be held and conducted in accordance with the Uniform

District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code).

(b) If less than a majority of the votes cast at the election is in favor of forming the district, the board of supervisors of the principal county shall declare the proceedings terminated.

(c) Notwithstanding subdivision (b), the formation election may be combined with a proposal for the adoption by the voters of a special tax and presented to the voters as a single ballot proposition. If both proposals are presented as a single ballot proposition, the proposed district shall not be formed and the special tax shall not take effect unless the proposition is approved by two-thirds of the voters voting upon the proposition. If less than two-thirds of the votes cast at the election is in favor of forming the district, the board of supervisors shall declare the proceedings terminated.

SEC. 94. Section 61222 of the Government Code is amended to read:

61222. (a) If a majority of the voters voting upon the question at a general district or special election are in favor, a district which has an appointed board shall have an elected board, or a district which has an elected board shall have an appointed board.

(b) The board may adopt a resolution placing the question on the ballot. Alternatively, upon receipt of a petition signed by at least 10 percent of the registered voters of the district, the board shall adopt a resolution placing the question on the ballot.

(c) If the question is submitted to the voters at a general district election, the notice required by Section 12115 of the Elections Code shall contain a statement of the question to appear on the ballot. If the question is submitted to the voters at a special election, the notice of election and ballot shall contain a statement of the question.

(d) If a majority of voters voting upon the question approves of changing from an appointed board to an elected board, the members of the board shall be elected at the next general district election. If a majority of voters voting upon the question approves of changing from an elected board to an appointed board, members shall be appointed to the board as vacancies occur.

(e) Before circulating any petition pursuant to this section, the chief petitioners shall publish a notice of intention which shall include a written statement not to exceed 500 words in length, setting forth the reasons for the proposal. The notice shall be published pursuant to Section 6061 in one or more newspapers of general circulation within the district. If the district is located in more than one county, publication of the notice shall be made in at least one newspaper of general circulation in each of the counties.

(f) The notice shall be signed by at least one, but not more than three, chief petitioners and shall be in substantially the following form:

"Notice of Intent to Circulate Petition

Notice is hereby given of the intention to circulate a petition affecting the Board of Directors of the _____ (name of the district). The petition proposes that _____ (description of the proposal)."

(g) Within five days after the date of publication, the chief petitioners shall file with the secretary of the board a copy of the notice together with an affidavit made by a representative of the newspaper in which the notice was published certifying to the fact of publication. After the filing, the petition may be circulated for signatures. Sections 100 and 104 of the Elections Code shall govern the signing of the petition and the format of the petition.

(h) A petition may consist of a single instrument or separate counterparts. The chief petitioner or petitioners shall file the petition, together with all counterparts, with the secretary of the board. The secretary shall not accept a petition for filing unless the signatures have been secured within six months of the date on which the first signature was obtained and the chief petitioner or petitioners submitted the petition to the secretary for filing within 60 days after the last signature was obtained.

(i) Within 30 days after the date of filing a petition, the secretary of the board shall cause the petition to be examined and shall prepare a certificate of sufficiency indicating whether the petition is signed by the requisite number of signers. The secretary shall cause the names of the signers on the petition to be compared with the voters' register in the office of the county elections official and ascertain (1) the number of registered voters in the district, and (2) the number of qualified signers appearing upon the petition.

(j) If the certificate of the secretary shows the petition to be insufficient, the secretary shall immediately give notice by certified mail of the insufficiency to the chief petitioners. That mailed notice shall state in what amount the petition is insufficient. Within 15 days after the date of the notice of insufficiency, the chief petitioners may file with the secretary a supplemental petition bearing additional signatures. Within 10 days after the date of filing a supplemental petition, the secretary shall examine the supplemental petition and certify in writing the results of his or her examination.

(k) The secretary shall sign and date a certificate of sufficiency. That certificate shall also state the minimum signature requirements for a sufficient petition and show the results of the secretary's examination. The secretary shall mail a copy of the certificate of sufficiency to the chief petitioners.

(*l*) Once the chief petitioners have filed a sufficient petition, the district board shall take the actions required pursuant to this section.

SEC. 95. Section 61400 of the Government Code is amended to read:

61400. The Uniform District Election Law (Part 4 (commencing

with Section 10500) of Division 10 of the Elections Code) shall govern all general district elections and Part 2 (commencing with Section 10100) of Division 10 of the Elections Code pertaining to the conduct of elections in general law cities shall govern all special district elections.

SEC. 96. Section 61450 of the Government Code is amended to read:

61450. Ordinances may be passed by voters in accordance with Article 1 (commencing with Section 9200) of Chapter 3 of Division 9 of the Elections Code.

SEC. 97. Section 61451 of the Government Code is amended to read:

61451. Ordinances may be disapproved and thereby vetoed by voters by proceeding in accordance with Article 2 (commencing with Section 9200) of Chapter 3 of Division 9 of the Elections Code.

SEC. 98. Section 71080 of the Government Code is amended to read:

71080. (a) Upon the establishment of a municipal or justice court, the judges of existing courts inferior to the superior court in any city, township, or judicial subdivision situated wholly or partly in the district or city and county for which a municipal or justice court is established shall, if eligible, become the judges of the municipal or justice court until the election or appointment and qualification of their successors. The time for election and qualification of their successors shall be that previously fixed for the election and qualification of their successors for the court and office superseded, had such courts not been superseded, but in no event shall that election of successors be held within 10 months of succession to the office of the new court.

(b) If the number of eligible incumbent judges who have not filed a written statement with the county elections official disclaiming their desire to succeed to office exceeds the number of judicial offices provided by law for the municipal or justice court, the incumbents shall not automatically succeed to judicial positions in the municipal or justice court, and the existing courts shall continue to function within the district until the first judge or judges of the municipal or justice court are elected by the qualified electors of the district at the first statewide general election held following the expiration of 90 days and qualify.

In any election for the first judge or judges of that municipal or justice court, only those incumbents may appear on the ballot and be elected, and Article 1 (commencing with Section 8200) of Chapter 2 of Division 8 of the Elections Code shall not apply. If only one incumbent is to be elected, the incumbent receiving the highest number of votes cast shall be declared elected. If two or more incumbents are to be elected, those incumbents equal in number to the number to be elected who receive the highest number of votes for the office shall be declared elected. The incumbents elected shall become the judges of the municipal or justice court until the election

or appointment and qualification of their successors. The time for election and qualification of their successors shall be that previously fixed for the election and qualification of their successors for the court and office superseded, had the courts not been superseded, but in no event shall that election of successors be held within 10 months of succession to the office of the new court.

SEC. 99. Section 71080.5 of the Government Code is amended to read:

71080.5. Notwithstanding Section 71080, where action is taken and has become effective at least 10 days before the declarations of candidacy as required by Article 1 (commencing with Section 8200) of Chapter 2 of Division 8 of the Elections Code to create, by consolidation, annexation, or otherwise, a judicial district having in excess of 40,000 residents in Shasta County, and where the consolidation, annexation, or other action is to be effective concurrently with the end of the term of the justice court judge or judges, the election immediately following the action shall be for the office or offices of municipal court judge for the new municipal court and any otherwise qualified person may be a candidate therefor.

SEC. 100. Section 71080.6 of the Government Code is amended to read:

71080.6. Notwithstanding Section 71080 or any other section of this code, where action is taken and has become effective at least 10 days before the declarations of candidacy as required by the Elections Code for a special election, to create by consolidation, annexation, or otherwise, a new justice court judicial district in Glenn County, and where the consolidation, annexation, or other action is to be operative concurrently with the end of the term of the justice court judge or judges, the Board of Supervisors of Glenn County shall call for a special election for the office of justice court judge for the new justice court and any otherwise qualified person may be a candidate therefor, and the special election shall be held prior to the vacancy actually occurring in the new justice court, and the Board of Supervisors of Glenn County shall consolidate the special election with the general election, as defined by subdivision (a) of Section 324 of the Elections Code, immediately following the action. The person receiving the highest number of votes cast shall be elected.

SEC. 101. Section 71091.1 of the Government Code is amended to read:

71091.1. Notwithstanding Section 71091, where action is taken and has become effective to create by consolidation, annexation, or otherwise, a new justice court judicial district in Glenn County, and where the consolidation, annexation, or other action is to be operative during the terms of the constables affected, the Board of Supervisors of Glenn County shall call for a special election for the office of constable for the new justice court and only those incumbents may appear on the ballot and be elected, and the special election shall be held prior to the excess number of constables actually occurring in the new justice court, and the Board of

Supervisors of Glenn County shall consolidate the special election with the general election, as defined by subdivision (a) of Section 324 of the Elections Code, immediately following the action. The person receiving the highest number of votes cast shall be elected and shall hold office for the balance of his original term of the office superseded.

SEC. 102. Section 71180 of the Government Code is amended to read:

71180. (a) Any vacancy in the office of judge of a municipal court shall be filled by appointment by the Governor, but no vacancy shall be deemed to exist in any office before the time fixed in Sections 71080, 71082, and 71083 for the selection of the judges of that court and the time fixed by law for their qualification. The appointee shall hold office for the remainder of the unexpired term of his or her predecessor and until his or her successor is elected and qualifies.

If the office to which any person so appointed was not previously occupied, he or she shall hold office until his or her successor is elected at the general state election next succeeding the occurrence of the vacancy and qualifies. No successor to the appointee shall be elected at any election held within 10 months of the date of the occurrence of the vacancy.

(b) If a vacancy in the office of judge of a municipal court occurs between the last day candidacy declaration papers may be filed and the June direct primary election and that vacancy occurs because of the appointment of the incumbent judge to another office by the Governor, or because the incumbent has resigned, retired, died, or been removed from office in accordance with subdivision (b) or (c) of Section 18 of Article VI of the California Constitution, and if one or more qualified persons other than the incumbent have filed candidacy declaration papers for the office, no vacancy shall be deemed to exist for purposes of subdivision (a), and the election for the office of judge shall be postponed until the next November statewide election.

If the Governor appoints the incumbent judge to another office within 68 days of the June direct primary election, and, as a result, the elections officer does not have sufficient time to remove the candidates' names from the ballot, the June direct primary election for the office shall not be deemed to have been held. At the next November statewide election, the candidate who receives the most votes shall be elected.

In order for a person's name to appear on the ballot at the next November statewide election the person shall file nomination documents in accordance with Article 2 (commencing with Section 8020) of Chapter 1 of Part 1 of Division 8 of the Elections Code. No previously filed documents shall satisfy this subdivision. Qualified persons who did not file nomination documents for the June direct primary election, as well as qualified persons who filed nomination documents for the June direct primary election, shall be permitted to file nomination documents for the November statewide election.

Persons who had previously paid the filing fee at the time of filing nomination documents for the June direct primary election shall not be required to pay a filing fee for the November statewide election.

SEC. 103. Section 75030.10 of the Government Code is amended to read:

75030.10. Any person who filed a declaration of candidacy for a judicial office pursuant to Section 8023 or 8201 of the Elections Code prior to May 1, 1962, and was elected to that office at the subsequent election, may elect pursuant to the provisions of Section 75030.5 to make contribution for, and receive credit in this system as service, time served as a public legal officer as defined in Section 75030.5. The contributions authorized by this section shall be made at the rate provided in Section 75102 on the effective date of this section.

SEC. 104. Section 82047.6 of the Government Code is amended to read:

82047.6. "Proponent of a state ballot measure" means "proponent" as defined in Section 9002 of the Elections Code.

SEC. 105. Section 84200.7 of the Government Code is amended to read:

84200.7. (a) Preelection statements for the June election period shall be filed as follows:

(1) For the period ending March 17, a statement to be filed no later than March 22. However, for a special election called after March 17, or for which the period for filing nomination documents, as defined in Section 333 of the Elections Code, ends after March 17, a preelection statement for the period ending 45 days before the election shall be filed no later than 40 days before the election.

(2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. All candidates being voted upon in the June election, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in the June election shall file this statement by guaranteed overnight delivery service or by personal delivery.

(b) Preelection statements for the November election period shall be filed as follows:

(1) For the period ending September 30, a statement to be filed no later than October 5.

(2) For the period ending 17 days before the election, a statement to be filed no later than 12 days before the election. All candidates being voted upon in the November election, their controlled committees, and committees formed primarily to support or oppose a candidate or measure being voted upon in the November election shall file this statement by guaranteed overnight delivery service or by personal delivery.

SEC. 106. Section 84305.5 of the Government Code is amended to read:

84305.5. (a) No slate mailer organization or committee primarily formed to support or oppose one or more ballot measures shall send

a slate mailer unless:

(1) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures are shown on the outside of each piece of slate mail and on at least one of the inserts included with each piece of slate mail in no less than 8-point roman type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the street address of the slate mailer organization or the committee primarily formed to support or oppose one or more ballot measure is a matter of public record with the Secretary of State's Political Reform Division.

(2) At the top or bottom of the front side or surface of at least one insert or at the top or bottom of one side or surface of a postcard or other self-mailer, there is a notice in at least 8-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

NOTICE TO VOTERS

THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION. Appearance in this mailer does not necessarily imply endorsement of others appearing in this mailer, nor does it imply endorsement of, or opposition to, any issues set forth in this mailer. Appearance is paid for and authorized by each candidate and ballot measure which is designated by an *.

(3) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures as required by paragraph (1) and the notice required by paragraph (2) may appear on the same side or surface of an insert.

(4) Each candidate and each ballot measure that has paid to appear in the slate mailer is designated by an *. Any candidate or ballot measure that has not paid to appear in the slate mailer is not designated by an *.

The * required by this subdivision shall be of the same type size, type style, color or contrast, and legibility as is used for the name of the candidate or the ballot measure name or number and position advocated to which the * designation applies except that in no case shall the * be required to be larger than 10-point boldface type. The

designation shall immediately follow the name of the candidate, or the name or number and position advocated on the ballot measure where the designation appears in the slate of candidates and measures. If there is no slate listing, the designation shall appear at least once in at least 8-point boldface type, immediately following the name of the candidate, or the name or number and position advocated on the ballot measure.

(5) The name of any candidate appearing in the slate mailer who is a member of a political party differing from the political party which the mailer appears by representation or indicia to represent is accompanied, immediately below the name, by the party designation of the candidate, in no less than 9-point roman type which shall be in a color or print that contrasts with the background so as to be easily legible. The designation shall not be required in the case of candidates for nonpartisan office.

(b) For purposes of the designations required by paragraph (4) of subdivision (a), the payment of any sum made reportable by subdivision (c) of Section 84219 by or at the behest of a candidate or committee, whose name or position appears in the mailer, to the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures, shall constitute a payment to appear, requiring the * designation. The payment shall also be deemed to constitute authorization to appear in the mailer.

(c) A slate mailer that complies with this section shall be deemed to satisfy the requirements of Sections 20003 and 20004 of the Elections Code.

SEC. 107. Section 88001 of the Government Code is amended to read:

88001. The ballot pamphlet shall contain all of the following:

(a) A complete copy of each state measure.

(b) A copy of the specific constitutional or statutory provision, if any, which would be repealed or revised by each state measure.

(c) A copy of the arguments and rebuttals for and against each state measure.

(d) A copy of the analysis of each state measure.

(e) Tables of contents, indexes, art work, graphics and other materials which the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.

(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county clerk upon request.

(g) A written explanation of the judicial retention procedure as required by Section 9083 of the Elections Code.

SEC. 108. Section 89522 of the Government Code is amended to read:

89522. This chapter shall not be construed to permit an expenditure of campaign funds prohibited by Section 18680 of the Elections Code.

SEC. 109. Section 6037.4 of the Harbors and Navigation Code is amended to read:

6037.4. The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition, prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The a ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 110. Section 6038 of the Harbors and Navigation Code is amended to read:

6038. On the day of any election held pursuant to this part, the polls at each of the polling places designated, shall be opened and closed as provided in Section 14212 of the Elections Code.

SEC. 111. Section 6240.5 of the Harbors and Navigation Code is amended to read:

6240.5. The Santa Cruz Port District shall be governed by a board of port commissioners consisting of five members, elected by the district at large, each of whom shall be an elector of the district at the time of his or her nomination or appointment and during his or her entire term. The Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) shall govern all district elections for port commissioners.

All members of the board of port commissioners of the district shall be elected at the general district election to be held in 1979 and shall take office as provided in the Uniform District Election Law. The district shall continue to be governed by a board of port commissioners appointed in accordance with this chapter until succeeded by the board of port commissioners elected at such general district election at noon on the last Friday in November next following the election. The term of office of each commissioner is four years, and as provided in the Uniform District Election Law, except that the commissioners elected at the first general district election shall classify themselves by lot so that the initial term of office of two commissioners shall be two years and the initial term of office of three commissioners shall be four years.

All vacancies occurring in the office of commissioner shall be filled by appointment by a majority of the remaining commissioners and as provided in Section 1780 of the Government Code.

At the first meeting of the board of port commissioners following the general district election, the board shall organize by electing one

of its members chairperson. The members of the board of port commissioners shall annually elect a chairperson. A chairperson shall not succeed himself or herself in office.

SEC. 112. Section 6309.2 of the Harbors and Navigation Code is amended to read:

6309.2. Before any ordinance may be adopted, the ordinance shall be published in its entirety on three separate occasions in a newspaper of general circulation published within the district, or if none, in any newspaper of general circulation published in the county in which the district, or a part thereof, is located, together with a notice of the date on which the board will meet for the purpose of adopting the ordinance. The first publication shall occur at least 20 days prior to the date of such meeting, and the second and third publications shall occur at seven-day intervals. The general public shall be allowed to appear at the meeting and be heard on the proposed ordinance. The ordinance shall become effective as provided in Section 9141 of the Elections Code, unless another effective date is set forth by the board.

SEC. 113. Section 6939.6 of the Harbors and Navigation Code is amended to read:

6939.6. Any bonds issued pursuant to this article shall be authorized by ordinance passed by two-thirds of all of the members of the board. The ordinance shall not become effective until approved by a two-thirds vote of the county supervisors who represent any portion of the territory which is included within the district. Except as provided in this section, an election need not be held within the district, and it is unnecessary to secure the approval of the electors within the district for the issuance of bonds for the purposes and within the limitations of this article.

The ordinance shall become effective 30 days from the date of its passage, unless a petition protesting the ordinance is presented to the board pursuant to Section 12315 of the Elections Code, prior to the effective date of the ordinance. If the petition is timely filed, proceedings for the adoption of the ordinance shall be conducted pursuant to Sections 12310 and 12315 of the Elections Code, and, as used in these sections, "board of supervisors" means the board of port commissioners, and "county" means the Sacramento-Yolo Port District.

SEC. 114. Section 7033.4 of the Harbors and Navigation Code is amended to read:

7033.4. The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following, in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition, prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 115. Section 7081 of the Harbors and Navigation Code is amended to read:

7081. Nomination papers for the office of director shall be signed by 25 or more registered electors in the district and filed with the secretary not more than 65 nor less than 40 days before the day of election. Otherwise the directors shall be nominated in accordance with the provisions for independent nominations set forth in Part 2 (commencing at Section 8300) of Division 8 of the Elections Code so far as they may be applicable.

SEC. 116. Section 7120 of the Harbors and Navigation Code is amended to read:

7120. Ordinances may be enacted by and for any district by initiative in the same manner and with the same effect as ordinances of counties under Article 1 (commencing at Section 9100) of Chapter 2 of Division 9 of the Elections Code and the terms used therein shall have the following meanings:

(a) "County" shall mean district.

(b) "Board of supervisors" shall mean board.

(c) "Elections official" shall mean secretary.

SEC. 117. Section 7121 of the Harbors and Navigation Code is amended to read:

7121. (a) No ordinance shall become effective until 30 days from and after the date of its passage, except the following:

(1) An ordinance calling or otherwise relating to an election.

(2) An ordinance for the immediate preservation of the public peace, health, or safety, that contains a declaration of, and the facts constituting, its urgency, and is passed by a four-fifths vote of the board.

(b) Prior to the effective date thereof ordinances shall be subject to referendum in the same manner and with the same effect as ordinances of counties under Article 2 (commencing with Section 9140) of Chapter 2 of Division 9 of the Elections Code and terms used therein shall have the meanings set forth in Section 7120.

SEC. 118. Section 2316 of the Health and Safety Code is amended to read:

2316. (a) On or before August 10 of each year, the district may adopt an ordinance to fix an emergency mosquito abatement standby charge in the district or any portion of the district.

(b) The ordinance shall establish schedules varying the charges according to land uses. The emergency mosquito abatement standby charge shall not exceed ten dollars ($10) per year for each parcel of land on which the charge is levied.

(c) Any ordinance to fix an emergency mosquito abatement

standby charge shall be adopted pursuant to Article 7 (commencing with Section 25120) of Division 2 of Title 3 of the Government Code. The ordinance shall be subject to Article 1 of Chapter 4 (commencing with Section 9300) of Division 9 of the Elections Code.

(d) The ordinance shall not apply to any parcel owned by a local agency, as defined in Section 2211 of the Revenue and Taxation Code.

SEC. 119. Section 4716.4 of the Health and Safety Code is amended to read:

4716.4. The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following, in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition, prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 120. Section 6461.4 of the Health and Safety Code is amended to read:

6461.4. The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following, in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition, prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 121. Section 6484 of the Health and Safety Code is amended to read:

6484. The members of the board elected at the election as a result of which the district was organized or, if the district is reorganized under this part, then the five members in office at the time of the reorganization shall, at their first meeting, or as soon thereafter as may be practicable, so classify themselves, by lot, that they shall go out of office as follows:

(a) Two shall serve until the election held in the first even-numbered year after the year in which the district is formed or reorganized, and until the election and qualification of their successors.

(b) Three shall serve until the second even-numbered year after the district is formed or reorganized, and until the election and qualification of their successors.

Notwithstanding any other provision of this part, except in districts that consolidate the election of directors with the direct primary election, the terms of office of members of the board in all districts existing on January 1, 1967, shall be determined as provided in Section 10507 of the Elections Code, and the terms of office of members of the board in all new districts shall be determined as provided in Section 10505 of the Elections Code.

SEC. 122. Section 6514.1 of the Health and Safety Code is amended to read:

6514.1. (a) A district may lease, for a term not exceeding 99 years, subject to periodic review, district property that will not be needed for district purposes during the term of the lease, as a means of providing revenues to the district for the operation and maintenance of sanitary sewer system and waste water treatment and disposal facilities of the district, and to finance the acquisition, construction, and improvement of these facilities.

(b) Prior to entering into a lease, the board shall, except as otherwise provided in subdivision (e), publish notice pursuant to Section 6066 of the Government Code of the time and place of the meeting of the board at which the proposed lease will be considered, and at that time and place shall afford all persons present an opportunity to be heard with respect to the proposed lease.

(c) If the board finds that the subject property will not be needed by the district and that it is in the best interests of the district and the users of its sanitary sewer system that the lease be entered into, it may, by ordinance setting forth the findings, authorize the lease. The ordinance shall be subject to Article 2 (commencing with Section 9340) of Chapter 4 of Division 9 of the Elections Code.

(d) Every lease shall be awarded to the bidder which, in the determination of the legislative body, offers the greatest economic return to the district after competitive bidding conducted in the manner determined by the legislative body. Notice inviting bids may be published pursuant to Section 6066, in one or more newspapers of general circulation within the district.

(e) If the board makes a finding at a noticed public hearing that the subject property will be used for compatible uses, that it will be of public benefit, and that the term of the lease will not exceed 10 years, subdivisions (c) and (d) shall be optional.

SEC. 123. Section 6580.1 of the Health and Safety Code is amended to read:

6580.1. The election of officers may be consolidated with the direct primary election if the board of directors passes a resolution

to that effect on or before the first day of August of the preceding odd-numbered year, and states in the resolution those offices of director to be filled at the first consolidated election. The offices that may be filled at the first consolidated election in those districts whose general district elections are held pursuant to the Uniform District Election Law are those offices that would have expired on the last Friday of December of the year preceding the direct primary election and in all other districts are those offices that would have expired in the year of the consolidated election or in the year next following. Upon a determination to consolidate pursuant to this section, the affected officers shall hold office until the first meeting of the board following the entry of the statement of the result of the consolidated election on the records of the board of supervisors or until the end of the terms for which they were elected, whichever is shorter. In the event this consolidation procedure is used, all other elective offices shall expire and be filled in the same manner at the next succeeding consolidated election. Any vacant office resulting from the operation of this section shall be filled by appointment by the board.

If the election of directors is consolidated, and if there is to be but one person to be elected to the office, the candidate receiving the highest number of votes cast for the candidates for that office shall be declared elected. If there are two or more persons to be elected to the office, those candidates equal in number to the number to be elected who receive the highest number of votes for the office shall be declared elected. If a tie vote makes it impossible to determine which of two or more candidates has been elected, the governing board shall forthwith notify the candidates who have received the tie votes to appear before it either personally or by representative, at a time and place designated by the governing body. The governing body shall then determine the tie by lot and the results thereof shall be declared by the governing body. The candidate so chosen shall qualify, take office and serve as though elected at the preceding general district election.

For consolidated elections, candidates shall declare their candidacy and shall be nominated, election returns shall be canvassed, the election shall be held and conducted, the results shall be declared, and the certificates of election shall be issued, in the same manner as the declaration of candidacy, nomination, election, canvassing of returns, declaration of results, and issuance of certificates of election for county officers are made, declared, held, and conducted, and issued, so far as consistent with the provisions of this section. Directors elected under this section, except the first board of directors, shall take office at the first meeting of the board following the entry of the statement of the result of the consolidated election on the records of the board of supervisors. Elections held under this section at the time of the direct primary election and consolidated therewith shall be known as the general district election, and each other election in a district holding elections under

this section which may be held by authority of this law, the Elections Code, or other law applicable thereto, shall be known as a special district election.

Part 3 (commencing with Section 10400) of Division 10 of, and Section 10515 of the Elections Code shall apply to every consolidation under this section.

SEC. 124. Section 6580.2 of the Health and Safety Code is amended to read:

6580.2. An officer elected or appointed pursuant to Section 6580.1 shall hold office until the election or appointment and qualification of his or her successor.

A district that has determined to consolidate its general district elections with the direct primary election may thereafter determine to conduct its general district elections pursuant to the Uniform District Election Law. In such event, the district board shall, at any time on or before July 15 of any odd-numbered year, adopt a resolution to that effect. A certified copy of the resolution shall be filed with the county elections official no later than July 20 of that year. Thereafter, the terms of each elective officer shall be determined pursuant to Section 10507 of the Elections Code, and, commencing with the first Tuesday after the first Monday in November of said year, all subsequent general district elections shall be held in the time and manner set forth in the Uniform District Election Law.

SEC. 125. Section 6936 of the Health and Safety Code is amended to read:

6936. Pursuant to Section 1002 of the Elections Code, any election held under Chapter 161 of the Statutes of 1891 or the Sanitary District Act of 1919 shall be held on the second Tuesday in March rather than the first Tuesday after the first Monday in March.

SEC. 126. Section 6955.1 of the Health and Safety Code is amended to read:

6955.1. A proposed zone shall contain at least 12 voters, as defined in Section 359 of the Elections Code. However, where there are fewer than 12 registered voters within a proposed zone, the public agency may form a zone if the county health officer determines that an existing or potential public health hazard exists. The board of supervisors shall receive a notice of this determination.

SEC. 127. Section 8934.4 of the Health and Safety Code is amended to read:

8934.4. The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 128. Section 13818 of the Health and Safety Code is amended to read:

13818. The petition shall be signed by not less than 25 percent of the registered voters residing in the area to be included in the district, as determined by the local agency formation commission pursuant to subdivision (h) of Section 56375 of the Government Code. Sections 100 and 104 of the Elections Code shall govern the signing of the petition and the format of the petition.

SEC. 129. Section 13825 of the Health and Safety Code is amended to read:

13825. (a) The chief petitioners or the agency filing the resolution or any member or members of the board of supervisors authorized by the board, or any individual voter or bona fide association of citizens entitled to vote on the district formation proposition, or any combination of these voters and associations of citizens, may file a written argument for or a written argument against the proposed district formation.

Arguments shall not exceed 300 words. Based on the time reasonably necessary to prepare and print the text of the proposition, analysis, arguments, and sample ballots and to permit the 10-day public examination period as provided in Section 9190 of the Elections Code for the particular election, the elections officials shall fix and determine a reasonable date prior to the election after which no arguments for or against the measure may be submitted for printing and distribution to the voters pursuant to Section 13826. Notice of the date fixed shall be published by the elections officials pursuant to Section 6061 of the Government Code. Arguments may be changed until and including the date fixed by the elections officials.

(b) If more than one argument for or more than one argument against the proposed district formation is filed with the elections officials within the time prescribed, the elections officials shall select one of the arguments for printing and distribution to the voters.

In selecting the arguments, the elections officials shall give preference and priority in the order named to the arguments of the following:

(1) Chief petitioners, or the agency filing the resolution.

(2) The board of supervisors, or any member or members of the board authorized by the board.

(3) Individual voters, or bona fide associations of citizens or a combination of voters and associations.

SEC. 130. Section 13826 of the Health and Safety Code is amended to read:

13826. The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question. Section 9190 of the Elections Code shall apply to the materials required to be contained in the ballot pamphlet.

The ballot pamphlet shall contain the following, in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition, submitted by the executive officer of the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 131. Section 13828 of the Health and Safety Code is amended to read:

13828. (a) The formation election and the election of members of the district board, if any, shall be held and conducted in accordance with the Uniform District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

(b) If less than a majority of the votes cast at the election is in favor of forming the district, the board of supervisors shall declare the proceedings terminated.

SEC. 132. Section 13843 of the Health and Safety Code is amended to read:

13843. (a) The term of office of each member of a district board is four years or until his or her successor qualifies and takes office, except as provided in subdivision (b).

(b) In the case of a district formed on or after January 1, 1988, the directors shall serve terms as provided in the Uniform District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

SEC. 133. Section 13845 of the Health and Safety Code is amended to read:

13845. (a) Except in the case where a county board of supervisors or a city council has appointed itself as the district board, the number of members of a district board may be increased or decreased if a majority of the voters voting on the question are in favor of the question at a general district or special election. The question shall specify the resulting number of members of the district board.

(b) The district board may adopt a resolution placing the question on the ballot. Alternatively, upon receipt of a petition signed by at least 25 percent of the registered voters of the district, the district board shall adopt a resolution placing the question on the ballot.

(c) If the question is submitted to the voters at a general district election, the notice required by Section 12115 of the Elections Code shall contain a statement of the question to appear on the ballot. If the question is submitted to the voters at a special election, the notice of election and the ballot shall contain a statement of the question.

(d) If the voters approve of increasing the number of directors, the new members shall be elected or appointed pursuant to this chapter. If the district board is elected, the additional members may be elected at the same election.

(e) If the voters approve of decreasing the number of directors, the members of the district board continue to serve until the end of their current terms.

(f) The number of members of a district board may be changed by the local agency formation commission as a term and condition of approval by the commission of any change of organization or reorganization. Unless the Cortese-Knox Local Government Reorganization Act of 1985, Division 3 (commencing with Section 56000) of Title 5 of the Government Code, otherwise requires voter approval, the change ordered by the commission does not require approval by the voters of the district.

SEC. 134. Section 13846 of the Health and Safety Code is amended to read:

13846. (a) In the case of an elected district board, the directors may be elected by divisions if a majority of the voters voting upon the question are in favor of the question at a general district or special election. Conversely, in the case of a district that has an elected district board which is elected by election division, the directors may be elected at large if a majority of the voters voting upon the question are in favor of the question at a general district or special election.

(b) As used in this section, "election by division" means the election of each member of the district board by voters of only the respective election division.

(c) The district board may adopt a resolution placing the question on the ballot. Alternatively, upon receipt of a petition signed by at least 25 percent of the registered voters of the district, the district board shall adopt a resolution placing the question on the ballot.

(d) If the question is submitted to the voters at a general district election, the notice required by Section 12115 of the Elections Code shall contain a statement of the question to appear on the ballot. If the question is submitted to the voters at a special election, the notice of election and ballot shall contain a statement of the question.

(e) If the majority of voters voting upon the question approves the election of directors by divisions, the district board shall promptly adopt a resolution dividing the district into as many divisions as there are directors. The resolution shall assign a number to each division. Using the last decennial census as a basis, the divisions shall be as nearly equal in population as possible. In establishing the boundaries of the divisions the district board may

give consideration to the following factors: (1) topography, (2) geography, (3) cohesiveness, contiguity, integrity, and compactness of territory, and (4) community of interests of the divisions.

(f) If the majority of voters voting upon the question approves the election of directors by division, the board members shall be elected by election divisions and each member elected shall be a resident of the election division from which he or she is elected. At the district general election following the approval by the voters of the election of directors by divisions, the district board shall assign vacancies on the board created by the expiration of terms to the respective election divisions and the vacancies shall be filled from those election divisions.

(g) If the majority of voters voting upon the question approves the election of directors at large, the district board shall promptly adopt a resolution dissolving the election divisions which had existed.

SEC. 135. Section 13848 of the Health and Safety Code is amended to read:

13848. (a) If a majority of the voters voting upon the question at a general district or special election are in favor, a district that has an appointed district board shall have an elected district board or a district that has an elected district board shall have an appointed district board.

(b) The district board may adopt a resolution placing the question on the ballot. Alternatively, upon receipt of a petition signed by at least 25 percent of the registered voters of the district, the district board shall adopt a resolution placing the question on the ballot.

(c) If the question is submitted to the voters at a general district election, the notice required by Section 12115 of the Elections Code shall contain a statement of the question to appear on the ballot. If the question is submitted to the voters at a special election, the notice of election and ballot shall contain a statement of the question.

(d) If a majority of voters voting upon the question approves of changing from an appointed district board to an elected district board, the members of the district board shall be elected at the next general district election. If a majority of voters voting upon the question approves of changing from an elected district board to an appointed district board, members shall be appointed to the district board as vacancies occur.

SEC. 136. Section 13850 of the Health and Safety Code is amended to read:

13850. (a) Sections 100 and 104 of the Elections Code shall govern the signing of the petition and the format of the petition.

(b) A petition may consist of a single instrument or separate counterparts. The chief petitioner or petitioners shall file the petition, together with all counterparts, with the secretary of the district board. The secretary shall not accept a petition for filing unless the signatures have been secured within six months of the date on which the first signature was obtained and the chief petitioner or petitioners submitted the petition to the secretary for filing within

60 days after the last signature was obtained.

SEC. 137. Section 13885 of the Health and Safety Code is amended to read:

13885. Except as otherwise provided in this part, districts are subject to the Uniform District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

SEC. 138. Section 13886 of the Health and Safety Code is amended to read:

13886. A district board may require that its election of district board members be held on the same day as the statewide general election pursuant to Section 10404 of the Elections Code.

SEC. 139. Section 13926 of the Health and Safety Code is amended to read:

13926. The resolution shall state:

(a) The purpose for which the proposed debt is to be incurred, which may include expenses for the authorization, issuance, and sale of bonds.

(b) The amount of debt to be incurred.

(c) The maximum term of the bonds, not to exceed 30 years.

(d) The maximum rate of interest to be paid, not to exceed the maximum rate permitted pursuant to Article 7 (commencing with Section 53530) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code.

(e) The measure to be submitted to the voters.

(f) The date the election will be held.

(g) Any other matters that are required pursuant to the Uniform District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

SEC. 140. Section 13927 of the Health and Safety Code is amended to read:

13927. The election shall be conducted pursuant to the Uniform District Election Law, Part 4 (commencing with Section 10500) of Division 10 of the Elections Code.

SEC. 141. Section 13962 of the Health and Safety Code is amended to read:

13962. (a) Upon receipt of a petition proposing an employee relations system for employees of the district, signed by at least 10 percent of the registered voters of the district, the district board shall either adopt an ordinance providing for the employee relations system, or adopt an ordinance subject to the approval of the voters of the district.

(b) District employees may circulate the petitions described in subdivision (a) at any time when they are not on duty.

(c) If the question is submitted to the voters at a general district election, the notice required by Section 12115 of the Elections Code shall contain a statement of the question to appear on the ballot. If the question is submitted to the voters at a special election, the notice of election and ballot shall contain a statement of the question.

(d) The question placed before the voters shall call for a "Yes" or

"No" vote and shall be in substantially the following form:

"Shall the ordinance of the Board of Directors of the _____ (name of the district), adopting an employee relations system for the employees of the district, be approved?"

(e) If a majority of the voters voting on the question approve of the question, the ordinance shall go into effect.

SEC. 142. Section 20040.4 of the Health and Safety Code is amended to read:

20040.4. The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following, in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition, prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 143. Section 20047 of the Health and Safety Code is amended to read:

20047. No person is entitled to vote on the question of formation of a district, or for the first board of commissioners, unless that person is a voter within the meaning of the Elections Code, and a resident within the boundaries of the proposed district.

SEC. 144. Section 20062 of the Health and Safety Code is amended to read:

20062. Notwithstanding any other provision of this part, the terms of office of commissioners of the board in all districts existing on January 1, 1969, shall be determined as provided in Section 10507 of the Elections Code, and the terms of office of commissioners of the board in all new districts shall be determined as provided in Section 10505 of the Elections Code.

SEC. 145. Section 32002 of the Health and Safety Code is amended to read:

32002. The manner of formation of local hospital districts, and the conducting of all hospital district elections, unless otherwise provided in this division shall be as in the manner provided, respectively, by Chapter 1 (commencing with Section 58000) of Division 2 of Title 6 of the Government Code, and Part 3 (commencing with Section 10400) and Part 4 (commencing with Section 10500) of Division 10 of the Elections Code. Except as provided in this division, these provisions are hereby incorporated in

this division by reference and shall have the same effect and force as if fully set forth herein. In addition to all other requirements regarding formation of hospital districts, no hearing upon the petition to form a hospital district shall be held until comments and recommendations of the Office of Statewide Health Planning and Development and each area health planning agency having territory within the proposed district, concerning the need for new or additional health facilities in the area to be served by the proposed district have been filed with the supervising authority. The Office of Statewide Health Planning and Development and the area health planning agency or agencies shall submit these comments and recommendations to the supervising authority within 60 days after receiving a request therefor from the proponents. Failure to submit these comments to the supervising body within 60 days shall be deemed to constitute a "no comment" response.

SEC. 146. Section 32002.34 of the Health and Safety Code is amended to read:

32002.34. The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following, in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition, prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 147. Section 32100 of the Health and Safety Code is amended to read:

32100. The elective officers of a local hospital district shall be a board of hospital directors consisting of five members, each of whom shall be a registered voter residing in the district and whose term shall be four years, with the exception of the first board. The first board of directors shall be appointed, upon the formation of the district, by the board of supervisors of the county in which the land or a greater part of the land in the district is situated. Upon appointment, the first board shall, by lot, designate two members who shall leave office when their successors take office pursuant to Section 10554 of the Elections Code, and three members who shall leave office two years thereafter. Any vacancy upon the board shall be filled by the methods prescribed in Section 1780 of the Government Code.

SEC. 148. Section 32100.01 of the Health and Safety Code is amended to read:

32100.01. A petition to increase the number of members of the board of directors of any district providing at least 225 hospital beds from five to seven members may be signed and filed with the board of directors at least three months prior to any general hospital district election by registered voters residing within any such local hospital district, equal in number to at least 5 percent of the number of votes cast in that district for the office of Governor at the last preceding election at which a Governor was elected. Upon receipt of this petition the board of directors shall prepare a measure to be printed on the ballots used at the next general hospital district election. The measure shall be printed on the ballots substantially as follows:

"Shall the number of directors of the _____ Hospital District be increased from five to seven?", with the words "Yes" and "No" so printed in connection therewith that the voters may express their choice.

The county elections official of the organizing county shall accept arguments for and against the measure to be mailed to each registered voter in the district, in accordance with the procedure specified in Article 3 (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code.

Under the measure, in the manner provided in this article, there shall be printed the names of those persons who have been nominated for the additional directorships.

The returns of the election shall be canvassed and declared as at other general hospital district elections. If a majority of the votes cast in the election are in favor of the measure the board of directors shall by resolution declare that the lawful number of directors of the district has been increased by the designated number of members. If a majority of the votes cast in the election are opposed to the measure, no similar measure shall be placed on the ballot until the next general hospital district election.

SEC. 149. Section 32100.02 of the Health and Safety Code is amended to read:

32100.02. The election of directors to fill the additional vacancies on the board created by expansion shall be an election at large. A director elected at the election but receiving the lesser number of votes in the election shall hold office until a successor takes office pursuant to Section 10554 of the Elections Code, and the director elected at the election receiving the greater number of votes shall hold office until two years thereafter.

SEC. 150. Section 32100.1 of the Health and Safety Code is amended to read:

32100.1. A petition for election of directors by zones may be signed and filed with the board of directors by registered voters residing within a local hospital district, equal in number to at least 15 percent of the number of votes cast in that district for the office of Governor at the last preceding election at which a Governor was elected. Upon receipt of this petition the board of directors shall, by resolution, divide the local hospital district into zones and number

the zones consecutively.

Alternatively, and without a petition, the board of directors may adopt a resolution to divide the district into zones and number the zones consecutively.

In establishing these zones, the board of directors shall provide for representation in accordance with demographic, including population, and geographic factors of the entire area of the local hospital district. The board of directors shall fix the time and place for a hearing on the proposed establishment of zones. At this hearing, any elector of the district may present his or her views and plans in relation to the proposed zoning, but the board of directors shall not be bound thereby and their decision, in the resolution adopted, shall be final.

The zones shall be effective for the next district election after the resolution of the board for which there is time to implement the zones and elections within the zones, unless a petition requesting an election on the resolution, containing the signatures of not less than 5 percent of the qualified registered voters of the district, is filed with the county elections official within 60 days after passage of the resolution. The form of the petition and the requirements and procedures applicable thereto shall be governed by Article 2 (commencing with Section 9140) of Chapter 2 of Division 9 of the Elections Code, except that all computations referred to in those sections shall be construed to refer to comparable computations of the district, and references to "ordinance" shall be construed to refer to "resolution." For purposes of this section, the electors of the district shall be the electors of the territory entitled to vote at elections for members of the board. If a valid and timely petition is filed with the county elections official, then the board shall prepare a measure to be printed on the ballots used at the next general hospital district election, or at a special election to be held for that purpose. The measure shall be printed on the ballots substantially as follows:

"Shall members of the board of directors be elected by zones, as described in the resolution of the board of directors dated _____?", with the words "Yes" and "No" so printed in connection therewith that the voters may express their choice.

The county elections official shall accept arguments for and against the measure, to be mailed to each registered voter in the district, in accordance with Article 3 (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code.

The returns of the election shall be canvassed and declared as at other general hospital district elections, and if it appears that a majority of the votes cast in the election are in favor of the measure, the board of directors shall by resolution declare the zones established and shall describe the boundaries of the zones. At the expiration of the terms of office of the members of the board of directors then in office, and thereafter, these members of the board of directors shall be elected by zones. One member of the board of

directors shall be elected by the electors of each of the zones. No person shall be eligible to hold the office of member of the board of directors unless he or she has been a resident of the zone from which he or she is elected for 30 days next preceding the date of the election.

The formation of a local hospital district may provide for the election of members of the board of directors by zones by substantially including in the petition for formation the provisions required by this section to be included in the measure, and the members of the board of directors shall be elected from the zones as described in the petition, except that the first board of directors shall be appointed, upon the formation of the district, by the board of supervisors of the county in which the land or a greater part of the land in the district is situated. One member of the board shall be appointed from each zone.

The terms of the members of the first board of directors appointed under this section shall be determined by lot. Three members shall hold office for four years, and two members shall hold office for two years. Thereafter, the term of office for all members shall be four years.

Any vacancy upon the board shall be filled by appointment by the remaining members of the board, from the zone left unrepresented on the board of directors. Any person appointed to fill the vacancy shall hold office for the unexpired term.

SEC. 151. Section 32100.5 of the Health and Safety Code is amended to read:

32100.5. A hospital district general election shall be held in each local hospital district on the first Tuesday after the first Monday in November in each even-numbered year, at which a successor shall be chosen to each officer whose term shall expire when the successor takes office pursuant to Section 10554 of the Elections Code. The hospital district general election shall be consolidated with the statewide general election pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

The person receiving the highest number of votes for each office to be filled at the election shall be elected thereto. The term of office of each elective officer of the district elected, shall be four years, or until his or her successor is elected and has qualified.

SEC. 152. Section 32121 of the Health and Safety Code is amended to read:

32121. Each local hospital district shall have and may exercise the following powers:

(a) To have and use a corporate seal and alter it at its pleasure.

(b) To sue and be sued in all courts and places and in all actions and proceedings whatever.

(c) To purchase, receive, have, take, hold, lease, use, and enjoy property of every kind and description within and outside the limits of the district, and to control, dispose of, convey, and encumber the same and create a leasehold interest in that property for the benefit

of the district.

(d) To exercise the right of eminent domain for the purpose of acquiring real or personal property of every kind necessary to the exercise of any of the powers of the district.

(e) To establish one or more trusts for the benefit of the district, to administer any trust declared or created for the benefit of the district, to designate one or more trustees for trusts created by the district, to receive by gift, devise, or bequest, and hold in trust or otherwise, property, including corporate securities of all kinds, situated in this state or elsewhere, and where not otherwise provided, dispose of the same for the benefit of the district.

(f) To employ legal counsel to advise the board of directors in all matters pertaining to the business of the district, to perform the functions in respect to the legal affairs of the district as the board may direct, and to call upon the district attorney of the county in which the greater part of the land in the district is situated for legal advice and assistance in all matters concerning the district, except that if that county has a county counsel, the directors may call upon the county counsel for legal advice and assistance.

(g) To employ any officers and employees, including architects and consultants, the board of directors deems necessary to properly carry on the business of the district.

(h) To prescribe the duties and powers of the hospital administrator, secretary, and other officers and employees of any hospitals of the district, to establish offices as may be appropriate and to appoint board members or employees to those offices, and to determine the number of, to appoint, and to fix the compensation of all officers and employees. The officers and employees shall hold their offices or positions at the pleasure of the boards of directors.

(i) To do any and all things an individual might do that are necessary for, and to the advantage of, a hospital and a nurses' training school, or a child care facility, for the benefit of employees of the hospital or residents of the district.

(j) To establish, maintain, and operate, or provide assistance in the operation of, one or more health facilities or health services, including, but not limited to, outpatient programs, services, and facilities, retirement programs, services, and facilities, chemical dependency programs, services, and facilities, or other health care programs, services, and facilities and activities at any location within or outside the district for the benefit of the district and the people served by the district.

"Health facilities," as used in this subdivision, means those facilities defined in either Section 15432 of the Government Code or Section 1250 and specifically includes freestanding chemical dependency recovery units.

(k) To do any and all other acts and things necessary to carry out this division.

(*l*) To acquire, maintain, and operate ambulances or ambulance services within and outside the district.

(m) To establish, maintain, and operate, or provide assistance in the operation of, free clinics, diagnostic and testing centers, health education programs, wellness and prevention programs, rehabilitation, aftercare, and any other health care services provider, groups, and organizations necessary for the maintenance of good physical and mental health in the communities served by the district.

(n) To establish and operate, in cooperation with its medical staff, a coinsurance plan between the hospital district and the members of its attending medical staff.

(o) To establish, maintain, and carry on its activities through one or more corporations, joint ventures, or partnerships, for the benefit of the hospital district.

(p) (1) To transfer, at fair market value, any part of its assets to one or more nonprofit corporations to operate and maintain the assets. A transfer pursuant to this paragraph shall be deemed to be at fair market value if an independent consultant, with expertise in methods of appraisal and valuation, and in accordance with applicable governmental and industry standards for appraisal and valuation, determines that fair and reasonable consideration is to be received by the district for the transferred hospital assets. Before the district transfers, pursuant to this paragraph, 50 percent or more of the district's assets to one or more nonprofit corporations, in sum or by increment, the elected board shall, by resolution, submit to the voters of the district a measure proposing the transfer. The measure shall be placed on the ballot of a special election held upon the request of the district, or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the board. If a majority of the voters voting on the measure vote in its favor, the transfer shall be approved. The campaign disclosure requirements applicable to local measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.

(2) To transfer, for the benefit of the communities served by the district, in the absence of adequate consideration, any part of the assets of the district, including without limitation real property, equipment, and other fixed assets, current assets, and cash, relating to the operation of the district's hospital to one or more nonprofit corporations to operate and maintain the assets.

(A) A transfer of 50 percent or more of the district's assets, in sum or by increment, pursuant to this paragraph, shall be deemed to be for the benefit of the communities served by the district only if all of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least five properly noticed open and public meetings in compliance with the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, and Section 32106.

(ii) The transfer agreement provides that the hospital district

shall approve all initial board members of the nonprofit corporation and any subsequent board members as may be specified in the transfer agreement.

(iii) The transfer agreement provides that all assets transferred to the nonprofit corporation, and all assets accumulated by the corporation during the term of the transfer agreement arising out of or from the operation of the transferred assets, are to be transferred back to the district upon termination of the transfer agreement, including any extension of the transfer agreement.

(iv) The transfer agreement commits the nonprofit corporation to operate and maintain the district's hospital and its assets for the benefit of the communities served by the district.

(v) The transfer agreement requires that any funds received from the district at the outset of the agreement, or any time thereafter during the term of the agreement, be used only to reduce district indebtedness, to acquire needed equipment for the district health facilities, to operate, maintain, and make needed capital improvements to the district's health facilities, to provide supplemental health care services or facilities for the communities served by the district, or to conduct other activities that would further a valid public purpose if undertaken directly by the district.

(B) A transfer of 33 percent or more but less than 50 percent of the district's assets, in sum or by increment, pursuant to this paragraph shall be deemed to be for the benefit of the communities served by the district only if both of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least two properly noticed open and public meetings in compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), and Section 32106.

(ii) The transfer agreement meets all of the requirements of clauses (ii) to (v), inclusive, of subparagraph (A).

(C) A transfer of 10 percent or more but less than 33 percent of the district's assets, in sum or by increment, pursuant to this paragraph shall be deemed to be for the benefit of the communities served by the district only if both of the following occur:

(i) The transfer agreement and all arrangements necessary thereto are fully discussed in advance of the district board decision to transfer the assets of the district in at least two properly noticed open and public meetings in compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), and Section 32106.

(ii) The transfer agreement meets all of the requirements of (iii) to (v), inclusive, of subparagraph (A).

(D) Before the district transfers, pursuant to this paragraph, 50 percent or more of the district's assets to one or more nonprofit corporations, in sum or by increment, the elected board shall, by resolution, submit to the voters of the district a measure proposing

the transfer. The measure shall be placed on the ballot of a special election held upon the request of the district, or the ballot of the next regularly scheduled election occurring at least 88 days after the resolution of the board. If a majority of the voters voting on the measure vote in its favor, the transfer shall be approved. The campaign disclosure requirements applicable to local measures provided under Chapter 4 (commencing with Section 84100) of Title 9 of the Government Code shall apply to this election.

(E) Notwithstanding the other provisions of this paragraph, a hospital district shall not transfer any portion of its assets to a private nonprofit organization that is owned or controlled by a religious creed, church, or sectarian denomination, in the absence of adequate consideration.

(3) If the district board has previously transferred less than 50 percent of the district's assets pursuant to this subdivision, before any additional assets are transferred the board shall hold a public hearing and shall make a public determination that the additional assets to be transferred will not, in combination with any assets previously transferred, equal 50 percent or more of the total assets of the district.

(4) The amendments to this subdivision made during the 1991–92 Regular Session, and the amendments made to this subdivision and to Section 32126 made during the 1993–94 Regular Session, shall only apply to transfers made on or after the effective dates of the acts amending this subdivision. The amendments to this subdivision made during those sessions shall not apply to any of the following:

(A) A hospital district that has discussed and adopted a board resolution, prior to September 1, 1992, that authorizes the development of a business plan for an integrated delivery system.

(B) A lease agreement, transfer agreement, or both, between a hospital district and a nonprofit corporation that was in full force and effect as of September 1, 1992, for as long as that lease agreement, transfer agreement, or both remain in full force and effect.

(5) Notwithstanding paragraph (4), if substantial amendments are proposed to be made to a transfer agreement described in subparagraph (A) or (B) of paragraph (4), the amendments shall be fully discussed in advance of the district board's decision to adopt the amendments in at least two properly noticed open and public meetings in compliance with Section 32106 and the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(6) Notwithstanding paragraphs (4) and (5), a transfer agreement described in subparagraph (A) or (B) of paragraph (4) that provided for the transfer of less than 50 percent of a district's assets shall be subject to the requirements of subdivision (p) of Section 32121 when subsequent amendments to that transfer agreement would result in the transfer, in sum or by increment, of 50 percent or more of a district's assets to the nonprofit corporation.

(7) For purposes of this subdivision, a "transfer" means the

transfer of ownership of the assets of a hospital district. A lease of the real property or the tangible personal property of a hospital district shall not be subject to this subdivision except as specified in Section 32121.4 and as required under Section 32126.

(8) Hospital districts that request a special election pursuant to paragraph (1) or (2) shall reimburse counties for the costs of that special election as prescribed pursuant to Section 10520 of the Elections Code.

(9) Nothing in this section, including subdivision (j), shall be construed to permit a local hospital district to obtain or be issued a single consolidated license to operate a separate physical plant as a skilled nursing facility or an intermediate care facility which is not located within the boundaries of the hospital district.

(10) A transfer of any of the assets of a district to one or more nonprofit corporations to operate and maintain the assets shall not be required to meet paragraphs (1) to (9), inclusive, of this subdivision if all of the following conditions apply at the time of the transfer:

(A) The district has entered into a loan that is insured by the State of California under Chapter 4 (commencing with Section 436) of Part 1 of Division 1.

(B) The district is in default of its loan obligations, as determined by the Office of Statewide Health Planning and Development.

(C) The Office of Statewide Health Planning and Development and the district, in their best judgment, agree the transfer of some or all of the assets of the district to a nonprofit corporation or corporations is necessary to cure the default, and will obviate the need for foreclosure. This cure of default provision shall be applicable prior to the office foreclosing on district hospital assets. After the office has foreclosed on district hospital assets, or otherwise taken possession in accordance with law, the office may exercise all of its powers to deal with and dispose of hospital property.

(D) The transfer and all arrangements necessary thereto are discussed in advance of the transfer in at least one properly noticed open and public meeting in compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) and Section 32106. The meeting referred to in this paragraph shall be noticed and held within 90 days of notice in writing to the district by the office of an event of default. If the meeting is not held within this 90-day period, the district shall be deemed to have waived this requirement to have a meeting.

(11) If a transfer under paragraph (10) is a lease, the lease shall provide that the assets shall revert to the district at the conclusion of the leasehold interest. If the transfer is a sale, the proceeds shall be used first to retire the obligation insured by the office, then to retire any other debts of the district. After providing for debts, any remaining funds shall revert to the district.

(q) To contract for bond insurance, letters of credit, remarketing services, and other forms of credit enhancement and liquidity

support for its bonds, notes, and other indebtedness and to enter into reimbursement agreements, monitoring agreements, remarketing agreements, and similar ancillary contracts in connection therewith.

(r) To establish, maintain, operate, participate in, or manage capitated health care plans, health maintenance organizations, preferred provider organizations, and other managed health care systems and programs properly licensed by the Department of Insurance or the Department of Corporations, at any location within or outside the district for the benefit of residents of communities served by the district. However, that activity shall not be deemed to result in or constitute the giving or lending of the district's credit, assets, surpluses, cash, or tangible goods to, or in aid of, any person, association, or corporation in violation of Section 6 of Article XVI of the California Constitution.

Nothing in this section shall authorize activities that corporations and other artificial legal entities are prohibited from conducting by Section 2400 of the Business and Professions Code.

Any agreement to provide health care coverage that is a health care service plan, as defined in subdivision (f) of Section 1345, shall be subject to the provisions of Chapter 2.2 (commencing with Section 1340) of Division 2, unless exempted pursuant to Section 1343 or 1349.2.

A district shall not provide health care coverage for any employee of an employer operating within communities served by the district, unless that coverage is specifically authorized in this section or elsewhere.

This section shall not authorize any district to contribute its facilities to any joint venture that could result in transfer of the facilities from district ownership.

(s) To provide health care coverage to members of the district's medical staff, employees of the medical staff members, and the dependents of both groups, on a self-pay basis.

SEC. 153. Section 32320 of the Health and Safety Code is amended to read:

32320. No hospital district shall sell revenue bonds until a formal agreement of the sale has been approved by the board of directors, by ordinance, which shall state that the agreement is subject to referendum as provided by Article 1 (commencing with Section 9300) of Chapter 4 of Division 9 of the Elections Code.

SEC. 154. Section 32321 of the Health and Safety Code is amended to read:

32321. (a) Any ordinance subject to Section 32320 shall be published after adoption once a week for two successive weeks, commencing within 15 days after adoption, in a newspaper of general circulation published in the district, or if there is none, in the newspaper of general circulation published nearest to the district. If there is no newspaper of general circulation published in the district, the ordinance shall also be posted in three public places in the district for two succeeding weeks.

(b) The board of directors of the district may introduce and enact an ordinance at any regular or adjourned regular meeting by the approving votes of a majority of all its members. The electors of the district shall have the right to petition for referendum on an ordinance pursuant to Article 2 (commencing with Section 9140) of Chapter 2 of Division 9 of the Elections Code, except that all computations referred to in those sections, and officers of the county mentioned in those sections, shall be construed to refer to comparable computations and officers of the district. For the purpose of the section, the term "electors" means the electors of territory entitled to vote at elections for the members of the board of directors.

SEC. 155. Section 40224 of the Health and Safety Code is amended to read:

40224. If any member of the bay district board is recalled from his or her office as a supervisor, mayor, or city council member, pursuant to Division 11 (commencing with Section 11000) of the Elections Code, his or her office as member of the bay district board shall be vacant.

SEC. 156. Section 40325 of the Health and Safety Code is amended to read:

40325. If any member of a regional district board is recalled from his or her office as a supervisor, mayor, or city council member, pursuant to Division 11 (commencing with Section 11000) of the Elections Code, his or her office as member of the regional district board shall be vacant.

SEC. 157. Section 1180.4 of the Military and Veterans Code is amended to read:

1180.4. The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following, in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition, prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 158. Section 171b of the Penal Code is amended to read:

171b. (a) Any person who brings or possesses within any state or local public building or at any meeting required to be open to the public pursuant to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, or Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, the

Government Code, any of the following is guilty of a public offense punishable by imprisonment in a county jail for not more than one year, or in the state prison:

(1) Any firearm.

(2) Any deadly weapon described in Section 653k or 12020.

(3) Any knife with a blade length in excess of four inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands.

(4) Any tear gas weapon, as defined in Sections 12401 and 12402.

(5) Any taser or stun gun, as defined in Section 244.5.

(6) Any instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, CO_2 pressure, or spring action, or any spot marker gun or paint gun.

(b) Subdivision (a) shall not apply to, or affect, any of the following:

(1) A person who possesses weapons in, or transports weapons into, a court of law to be used as evidence.

(2) (A) A duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a retired peace officer with authorization to carry concealed weapons as described in subdivision (a) of Section 12027, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer.

(B) Notwithstanding subparagraph (A), subdivision (a) shall apply to any person who brings or possesses any weapon specified therein within any courtroom if he or she is a party to an action pending before the court.

(3) A person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(4) A person holding a valid tear gas weapon card pursuant to Section 12403.7 allowing that person to carry the tear gas or tear gas weapon.

(5) A person who has permission to possess that weapon granted in writing by a duly authorized official who is in charge of the security of the state or local government building.

(6) A person who lawfully resides in, lawfully owns, or is in lawful possession of, that building with respect to those portions of the building that are not owned or leased by the state or local government.

(7) A person licensed or registered in accordance with, and acting within the course and scope of, Chapter 11.5 (commencing with Section 7512) or Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code who has been hired by the owner or manager of the building if the person has permission pursuant to paragraph (5).

(c) As used in this section, "state or local public building" means

a building that meets all of the following criteria:

(1) It is a building or part of a building owned or leased by the state or local government, if state or local public employees are regularly present for the purposes of performing their official duties. A state or local public building includes, but is not limited to, a building that contains a courtroom.

(2) It is not a building or facility, or a part thereof, that is referred to in Section 171c, 171d, 626.9, 626.95, or 626.10 of this code, or in Section 18544 of the Elections Code.

(3) It is a building not regularly used, and not intended to be used, by state or local employees as a place of residence.

SEC. 159. Section 403 of the Penal Code is amended to read:

403. Every person who, without authority of law, willfully disturbs or breaks up any assembly or meeting that is not unlawful in its character, other than an assembly or meeting referred to in Section 302 of the Penal Code or Section 18340 of the Elections Code, is guilty of a misdemeanor.

SEC. 160. Section 1865 of the Probate Code is amended to read:

1865. If the conservatee has been disqualified from voting pursuant to Section 2208 or 2209 of the Elections Code, upon termination of the conservatorship, the court shall notify the county clerk of the county of residence of the former conservatee that the former conservatee's right to register to vote is restored.

SEC. 161. Section 1910 of the Probate Code is amended to read:

1910. If the court determines the conservatee is not capable of completing an affidavit of voter registration in accordance with Section 2150 of the Elections Code, the court shall by order disqualify the conservatee from voting pursuant to Section 2208 or 2209 of the Elections Code.

SEC. 162. Section 5506.3 of the Public Resources Code is amended to read:

5506.3. (a) (1) The Legislature hereby finds and declares that the population of San Diego County continues to grow at an increasing rate, and already the county is far behind other urban areas in the state in providing adequate park, recreational, and open-space facilities for its residents. Formation of a regional district with boundaries coterminous with those of San Diego County is critical to help address the growing and unmet park and recreational needs in San Diego County.

(2) Proceedings for the formation of a regional park and open-space district or a regional open-space district with boundaries coterminous with those of San Diego County may be initiated by resolution of the Board of Supervisors of the County of San Diego after a hearing noticed in accordance with Section 6064 of the Government Code, in lieu of the petition and proceedings related to the petition specified in this article.

(b) As used in this section and Sections 5538.3 and 5539.3:

(1) "Regional district" means a district formed pursuant to this section that contains all of the territory within San Diego County,

including all incorporated cities.

(2) "Capital outlay project" means the acquisition or improvement of real property, but, for purposes of subdivision (c) includes the servicing of bonds issued pursuant to Section 5539.3.

(c) The resolution specified in subdivision (a) shall do all of the following:

(1) Name the proposed regional district and state the reasons for forming it.

(2) Specify that the Board of Supervisors of the County of San Diego shall act, ex officio, as the governing body of the regional district. The provisions of this article pertaining to district directors do not apply, and all powers and authority of the regional district shall be vested in the board of supervisors in its capacity as the governing body of the regional district.

(3) Describe the territory to be included in the regional district.

(4) Describe the methods by which the regional district will be financed.

(5) (A) Specify that all revenue generated by the regional district, including the proceeds from the issuance of any bonds, shall be allocated among all affected public agencies within the territory of the district, for expenditure consistent with the purposes of this article, to adequately address the needs specified in subdivision (a) of Section 5539.3.

(B) For the purposes of this paragraph, "all affected public agencies" means the County of San Diego, all incorporated cities within the county, and any joint powers authority or agency established for the purpose of acquiring land for park, recreational, open-space, and conservation purposes.

(6) (A) Call and give notice of an election to be held in the proposed regional district for the purpose of determining whether the regional district shall be formed.

(B) Notwithstanding Section 5518, the County Counsel of the County of San Diego shall prepare the language in the ballot label. The proposition shall specify the matters set forth in the resolution, except for subparagraph (A). The analysis and review of the measure shall be carried out pursuant to Section 9160 of the Elections Code.

(7) State that, in the first 20 years after the date that an assessment is levied pursuant to Section 5539.3, a minimum of 80 percent of all proceeds of assessments levied by the regional district shall be used for capital outlay projects.

(8) Include an expenditure plan consisting of a list of capital outlay projects, including acquisition areas, and a general description of proposed outlays for operation and maintenance, to be funded, over a 20-year period from the date on which the assessment is first levied, with proceeds of assessments levied by the regional district.

(9) State the proposed rate and method of apportionment to be used in levying annual assessments for all categories of property.

(10) Include any other matters determined to be necessary by the board of supervisors.

(d) (1) The formation of the regional district is not subject to Section 5517.1 or to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

(2) The regional district shall be formed if a majority of voters voting on the proposition vote in favor of formation of the regional district.

(e) (1) No proceeds from any bonds issued pursuant to Section 5539.3 shall be expended for operation and maintenance. Bond proceeds may be expended to pay all costs incidental to the preparation and issuance of the bonds.

(2) The regional district may use the proceeds from the levy of assessments for the operation and maintenance of capital outlay projects.

(f) The San Diego Association of Governments, serving as the Regional Planning and Growth Management Review Board, should review the expenditure plan for consistency with the open-space element of the Regional Growth Management Strategy.

SEC. 163. Section 5506.10 of the Public Resources Code is amended to read:

5506.10. (a) (1) The Legislature hereby finds and declares that the population of Sacramento County continues to grow at an increasing rate, and already the county is far behind in providing adequate park, recreational, and open-space facilities for its residents. Formation of a regional district with boundaries coterminous with those of Sacramento County is critical to help address the growing and unmet park and recreational needs in Sacramento County.

(2) Proceedings for the formation of a regional park and open-space district or a regional open-space district with boundaries coterminous with those of Sacramento County may be initiated by resolution of the Board of Supervisors of the County of Sacramento after a hearing noticed in accordance with Section 6064 of the Government Code, in lieu of the petition and proceedings related to the petition specified in this article.

(b) As used in this section:

(1) "Regional district" means a district formed pursuant to this section that contains all of the territory within Sacramento County, including all incorporated cities.

(2) "Capital outlay project" means the acquisition or improvement of real property, but, for purposes of subdivision (c) includes the servicing of bonds issued pursuant to Section 5539.10.

(3) "Maintenance" means both of the following:

(A) Those purposes listed in Section 22531 of the Streets and Highways Code.

(B) Security for park, recreational, and open-space lands and improvements, including, but not limited to, park rangers and park security personnel.

(c) The resolution specified in subdivision (a) shall do all of the

following:

(1) Name the proposed regional district and state the reasons for forming it.

(2) Specify that the Board of Supervisors of the County of Sacramento shall act, ex officio, as the governing body of the regional district. The provisions of this article pertaining to district directors do not apply, and all powers and authority of the regional district shall be vested in the board of supervisors in its capacity as the governing body of the regional district.

(3) Describe the territory to be included in the regional district.

(4) Describe the methods by which the regional district will be financed.

(5) (A) Specify that all revenue generated by the regional district, including the proceeds from the issuance of any bonds, shall be allocated among all affected public agencies within the territory of the district, for expenditure consistent with the purposes of this article, to adequately address the needs specified in subdivision (a) of Section 5539.10.

(B) For the purposes of this paragraph, "all affected public agencies" means the County of Sacramento, all incorporated cities within the county, and any park district or county service area established for the purpose of acquiring, improving, and managing land or improvements for park, recreational, open-space, or conservation purposes which is included within the territory of the district.

(6) (A) Call and give notice of an election to be held in the proposed regional district for the purpose of determining whether the regional district shall be formed.

(B) Notwithstanding Section 5518, the County Counsel of the County of Sacramento shall prepare the language in the ballot label. The proposition shall specify the matters set forth in the resolution, except for subparagraph (A). The analysis and review of the measure shall be carried out pursuant to Section 9160 of the Elections Code.

(7) State that in the first 20 years after the date that an assessment is levied pursuant to Section 5539.10, a minimum of 75 percent of all proceeds of assessments levied by the regional district shall be used for capital outlay projects on a nonannualized basis.

(8) Include an expenditure plan consisting of a list of capital outlay projects, including acquisition areas, and a general description of proposed outlays for operation and maintenance to be funded, over a 20-year period from the date on which the assessment is first levied, with proceeds of assessments levied by the regional district. No funds shall be allocated for capital outlay projects or for the operation and maintenance of any lands or facilities that are not located within the boundaries of the regional district.

(9) State the proposed rate and method of apportionment to be used in levying annual assessments for all categories of property.

(10) Include any other matters determined to be necessary or desirable by the board of supervisors.

(d) (1) The formation of the regional district is not subject to Section 5517.1 or to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

(2) The regional district shall be formed if a majority of voters voting on the proposition vote in favor of formation of the regional district.

(e) (1) No proceeds from any bonds issued pursuant to Section 5539.10 shall be expended for operation and maintenance. Bond proceeds may be expended to pay all costs incidental to the preparation and issuance of the bonds.

(2) The regional district may use the proceeds from the levy of assessments for the operation and maintenance of capital outlay projects and any lands acquired and improvements made to park, recreational, and open-space lands of the regional district.

SEC. 164. Section 5517.4 of the Public Resources Code is amended to read:

5517.4. The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following, in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition, prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 165. Section 5532 of the Public Resources Code is amended to read:

5532. (a) Except as otherwise provided in this section and Section 5531, Chapter 1 (commencing with Section 8000) of Part 1 of Division 7 of the Elections Code shall substantially govern the manner of appointment of circulators, the form of nomination documents and the securing of signatures to the nomination documents, the filing of the candidate's nomination documents, the payment of filing fees, and all other things necessary to get the name of the candidate upon the ballot.

(b) Circulators may obtain signatures to the nomination paper of any candidate at any time not more than 113 days nor less than 88 days prior to the election, and all nomination documents shall be filed with the secretary of the district not more than 113 days nor less than 88 days before the day of election and shall be examined by him or her.

(c) The election shall be consolidated with the general election as

to territory that is the same, and the secretary of the district shall certify the names of all candidates to be placed upon the ballot to the county elections official or officials within the territory affected by the consolidation at least 67 days prior to the date of the election.

(d) Upon the filing of a sufficient nomination paper and declaration of candidacy by any candidate, the name of the candidate shall go upon the ballot at the ensuing general election. Upon receipt of the returns of the canvass by the respective boards of supervisors, the directors of the district shall meet and determine results of the election and declare the candidate or candidates elected.

(e) Notwithstanding any other provision of this section if, by 5 p.m. on the 83rd day prior to the day fixed for the ensuing general election, only one person has been nominated for any elective office to be filled at that election, or no one has been nominated for the office and if a petition signed by 10 percent of the voters or 50 voters, whichever is the smaller number, in the district, or division if elected by division, requesting that the election of directors be held has not been presented to the board of directors, the board of directors shall submit a certificate of these facts to the county elections official or officials and the board of directors, at a regular or special meeting held prior to the last Monday before the last Friday in November in which the election is held, shall appoint to the office or offices the person or persons, if any, who have been nominated. The board of directors shall make the appointments. If no person has been nominated for any office, the board of directors shall appoint any person to the office who is qualified at the first regular or special meeting after the date upon which the election would have been held. The board of directors may permit the candidates running unopposed to have their names appear on the ballot, at the board's option. The person appointed shall qualify and take office and serve exactly as if elected for the office.

(f) The secretary of the district shall issue certificates of election, signed by him or her and duly authenticated, immediately following the determination of the result of the election or the appointment by the directors of the district.

(g) The oath of office shall be taken, subscribed, and filed with the secretary of the district within 30 days after the officer has notice of his or her election or appointment or before the expiration of 15 days before the commencement of his or her term of office. No other filing is required.

SEC. 166. Section 5539.3 of the Public Resources Code is amended to read:

5539.3. (a) (1) The Legislature hereby finds and declares that the land acquisition, improvements, and services provided by the regional district formed pursuant to Section 5506.3 will specifically benefit the properties assessed and the persons paying the assessments authorized in this section in at least the following respects:

(A) Enhanced recreational opportunities and expanded access to recreational facilities for all residents throughout the regional district.

(B) Improved quality of life for all communities in the regional district by protecting, restoring, and improving the regional district's irreplaceable park, wildlife, open-space, and beach lands.

(C) Preservation of canyons, foothills, and mountains and development of public access to these lands throughout the regional district.

(D) Protection of the diverse historical, cultural, and archaeological values of the territory of the regional district.

(E) Increased economic activity and expanded employment opportunities within the regional district.

(F) Increased property values, resulting from the benefits specified in this subdivision.

(G) Provision of benefits to all properties within the regional district, including positive impacts on air and water quality, capacity of roads, transportation and other public infrastructure systems, schools, and public utilities.

(2) The Legislature further finds and declares all of the following:

(A) The expansion, restoration, and improvement of park, recreational, beach, and open-space lands throughout the regional district benefits all residents in the regional district.

(B) Protection, restoration, and improvement of the lands within the regional district are vital to the quality of life for all residents in the regional district.

(C) Increased park and recreational opportunities in the densely populated and heavily urbanized areas of the regional district are vital to the health and well-being of all residents in the regional district, and providing those opportunities is a high priority.

(D) Portions of parcels of land that are in commercial agricultural use do not benefit from park or open-space lands, facilities, or services funded pursuant to this section.

(b) In addition to the authority conferred in Section 5539.5, to the extent not inconsistent with this section, the Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code), is applicable to the regional district, except as follows:

(1) Article 2 (commencing with Section 22605) of Chapter 2 of Part 2 of Division 15 of the Streets and Highways Code does not apply.

(2) No changes shall be made pursuant to Chapter 3 (commencing with Section 22620) of Part 2 of Division 15 of the Streets and Highways Code or Section 5572 of this code with respect to the rate and method of apportionment of assessments, the use of proceeds of assessments, the use of proceeds of bonds, and the territory included within the district, except that the governing body may correct errors in assessments, rule on appeals of assessments against particular parcels, and annually adjust the assessments levied

against particular parcels of real property to reflect changes in the uses of those parcels.

(3) No changes shall be made to the rate and method of apportionment of any assessment approved by the voters and levied pursuant to this section.

(4) In addition to the items required by Section 22567 of the Streets and Highways Code, the regional district's annual report shall include all of the following:

(A) Changes in the total number of parcels assessed and changes in the number of parcels with respect to use code.

(B) The amount of revenue expected to be received by the regional district in the next fiscal year.

(C) The proposed allocation of funds for operation and maintenance for the next fiscal year.

(D) The expenditure of funds in the current fiscal year.

(5) Any notice required pursuant to the Landscaping and Lighting Act of 1972, Section 54954.6 of the Government Code, or Section 5511 shall be published pursuant to Section 6064 of the Government Code.

(6) (A) (i) The governing body shall not levy any assessment unless a proposition authorizing the regional district to levy the assessment is first approved by a majority of the voters voting on the proposition. The proposition shall include the matters specified in subdivision (c) of Section 5506.3, except for paragraph (6). The election held pursuant to this paragraph shall satisfy the requirement for any election that may be required under Section 22525.5 of the Streets and Highways Code.

(ii) No additional assessment shall be levied pursuant to this section, including any assessment for time periods beyond those specified in paragraphs (7) and (8) of subdivision (c) of Section 5506.3, unless a proposition, including the provisions specified in paragraphs (5), (8), and (9) of subdivision (c) of Section 5506.3, is approved by a majority of the voters in the regional district voting on the proposition.

(B) Notwithstanding Section 5518, the County Counsel of the County of San Diego shall prepare the language in the ballot label. The analysis and review of the measure shall be carried out pursuant to Section 9160 of the Elections Code.

(C) The Board of Supervisors of San Diego County may consolidate a proposition submitted to the voters pursuant to this paragraph into a single ballot measure with the proposition whether to form the regional district submitted pursuant to paragraph (6) of subdivision (c) of Section 5506.3.

(D) Notwithstanding any other provision of the Landscaping and Lighting Act of 1972, any assessment proposed pursuant to that act shall be deemed levied upon approval of a majority of the voters voting on the proposition.

(7) (A) All proceeds of assessments levied or bonds issued by the regional district shall be allocated in accordance with paragraphs (5)

and (8) of subdivision (c) of Section 5506.3.

(B) Any future expenditure plan shall include a division of funds between expenditures for capital outlay projects and expenditures for operation and maintenance, a list of proposed capital outlay projects, and a description of areas proposed for acquisition. No expenditure plan shall contain any provision that may impair the payment of debt service on bonds or other evidence of indebtedness previously issued pursuant to this section. Any assessment levied pursuant to this section may include an annual amount to pay the costs of operation and maintenance and may be collected in annual installments.

(c) Prior to the election required by paragraph (6) of subdivision (b), the Board of Supervisors of San Diego County may undertake proceedings on behalf of the proposed regional district in accordance with Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code to create an assessment district with the same boundaries as the proposed regional district. Hearings required pursuant to Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code may be consolidated with those required pursuant to this article. Those proceedings shall be deemed to be the proceedings required by Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code.

(d) (1) The governing body shall exempt from assessment any uninhabited parcel that is substantially used in agriculture and any parcel enforceably restricted as open-space land during the time that the parcel is so used or restricted, if the governing body determines that the parcel will not benefit from the expenditure of the proceeds of assessments.

(2) For purposes of this subdivision, lands that are enforceably restricted as open-space lands include, but are not limited to, lands restricted under contract pursuant to the Williamson Act (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code) and lands restricted pursuant to a conservation easement.

(e) Notwithstanding any other provision in the acts specified in Section 5539.5 and in subdivision (b), the net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method that fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each lot or parcel from the improvements.

(f) The regional district shall not levy assessments beyond the last maturity date of any bonds issued pursuant to Section 5539.3, nor longer than 30 years from the date on which the assessment is first levied.

(g) The regional district shall not levy an assessment within a city or within the unincorporated territory of the county if the city or the county has adopted an ordinance limiting rents, and that ordinance applies to real property other than mobilehome parks, unless one of the following applies:

(1) Under the ordinance, the owner of the real property is permitted to increase directly without filing requirements, the rent rate owed by a tenant under an existing lease in an amount not less than that tenant's proportional share of one-half of the increased assessment applied to the real property.

(2) An amount not less than a tenant's proportional share of one-half of the increased assessment applied to the real property is added to an annual general adjustment to the rental rate owed by that tenant.

SEC. 167. Section 5539.9 of the Public Resources Code is amended to read:

5539.9. (a) In addition to the authority conferred in Section 5539.5, the Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code), except Sections 22605, 22609, and 22610 of, and Chapter 3 (commencing with Section 22620) of Part 2 of Division 15 of, the Streets and Highways Code, is, to the extent not inconsistent with or superseded by this section, applicable to a regional district created and established in Los Angeles County, except as follows:

(1) Article 2 (commencing with Section 22605) of Chapter 2 of Part 2 of Division 15 of the Streets and Highways Code shall not apply.

(2) No changes shall be made pursuant to Chapter 3 of Part 2 of Division 15 of the Streets and Highways Code or Section 5572 of this code with respect to the rate and method of apportionment of assessments, the use of proceeds of assessments, the use of proceeds of bonds, and the territory included within the district, except that the governing body may correct errors in assessments, rule on appeals of assessments against particular parcels, and annually adjust the assessments levied against particular parcels of real property to reflect changes in the uses of those parcels.

(3) No changes shall be made to the rate and method of apportionment of any assessment approved by the voters and levied pursuant to this section.

(4) Article 4 (commencing with Section 22565) of Chapter 1 of Part 2 of Division 15 of the Streets and Highways Code shall apply to a regional district created pursuant to Section 5506.9, and, in addition to the items listed in that article, the annual report shall include all of the following:

(A) Changes in the total number of parcels assessed and changes in the number of parcels with respect to use code.

(B) Amount of funds to be generated by the regional district in the next fiscal year.

(C) The proposed allocation of funds for maintenance and servicing for the next fiscal year.

(D) The disposition of funds generated by the regional district in the current fiscal year. Whenever the public interest or convenience requires, the regional district may, at the discretion of its governing body, use any or all provisions of that act to carry out any purpose

of the regional district.

(b) For the purposes of the regional district, any notice required to be published pursuant to the Landscaping and Lighting Act of 1972 (Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code) or pursuant to Section 5511 shall be published pursuant to Section 6064 of the Government Code.

(c) Notwithstanding subdivision (a), the governing body of the regional district shall not levy any assessment pursuant to the Landscaping and Lighting Act of 1972 unless a proposition authorizing the regional district to levy the assessments is first approved by a majority of the voters voting on the proposition. The Board of Supervisors of Los Angeles County may consolidate a proposition submitted to the voters pursuant to this subdivision into a single ballot measure with the proposal to determine whether to create and establish a regional district pursuant to paragraph (6) of subdivision (c) of Section 5506.9. Notwithstanding Section 5518, the County Counsel of the County of Los Angeles shall prepare the language in the ballot label. The proposition shall specify the matters set forth in the resolution adopted pursuant to subdivision (c) of Section 5506.9, except paragraph (6) thereof. Notwithstanding any other provision in the Landscaping and Lighting Act of 1972, any assessments proposed pursuant to that act shall be deemed levied upon approval of a majority of the voters voting on the proposition.

(d) (1) Notwithstanding any other provisions in the Landscaping and Lighting Act of 1972, all proceeds of assessments levied or bonds issued by the regional district shall be allocated in accordance with paragraphs (5) and (8) of subdivision (c) of Section 5506.9.

(2) No levy of any additional assessments pursuant to this section, including any levy of any assessment beyond the maximum time periods for which assessments are authorized pursuant to Section 5506.9, may be authorized unless a proposition, including the provisions specified in paragraphs (5), (8), and (9) of subdivision (c) of Section 5506.9, is approved by a majority of the voters in the regional district voting on the proposition. Any future expenditure plan shall include a division of funds between capital outlay and maintenance and servicing, and a list of capital outlay projects and acquisition areas. No future expenditure plan shall contain any provision that could impair the payment of debt service on bonds or other evidence of indebtedness previously issued pursuant to this section. Notwithstanding any provision of the Landscaping and Lighting Act of 1972, any assessment levied pursuant to this section may include an annual amount to pay the costs of maintenance and servicing of the capital outlay projects funded pursuant to Section 5506.9, and may be collected in annual installments.

(e) Prior to the election required by subdivision (c), the Board of Supervisors of Los Angeles County may undertake proceedings on behalf of the proposed regional district in accordance with Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code to create an assessment district with the same

boundaries as the proposed regional district. Hearings required pursuant to Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code may be consolidated with those required pursuant to this division. Those proceedings shall be deemed to be the proceedings required by Part 2 (commencing with Section 22500) of Division 15 of the Streets and Highways Code.

(f) The governing body may exempt from the assessment any uninhabited parcel substantially used in agriculture and any parcel enforceably restricted as open-space land during the time in which the parcel is so used or restricted, if the governing body determines that these parcels will not benefit from the expenditure of the proceeds of assessments.

(g) The formation of a regional district with boundaries coterminous with those of Los Angeles County is not subject to Section 5517.1 or to the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code).

(h) Notwithstanding any other provision in the acts specified in Section 5539.5 and in subdivision (a), the net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method that fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each lot or parcel from the improvements.

(i) Analysis and review of the measure submitted to the voters pursuant to subdivision (c) shall be carried out pursuant to Section 9160 of the Elections Code.

(j) The Legislature hereby finds and declares that the land acquisition, improvements, and services provided by the regional district, if created and established, will specially benefit the properties assessed and the persons paying the assessments authorized in this section in at least the following respects:

(1) Enhanced recreational opportunities and expanded access to recreational facilities for all residents throughout the district.

(2) Improved quality of life for all communities in the district by protecting, restoring, and improving the district's irreplaceable beach, wildlife, park, and open-space land.

(3) Preservation of mountains, foothills, and canyons, and development of public access to these lands throughout the district.

(4) Protection of historical and cultural assets of the region.

(5) Increased economic activity and expanded employment opportunities within the regional district.

(6) Increased property values, resulting from the effects specified in this subdivision.

(7) Provision of benefits to all properties within the county, including positive impacts on air and water quality, capacity of roads, transportation and other public infrastructure systems, schools, and public utilities.

(k) The Legislature also finds and declares the following:

(1) The expansion, restoration, and improvement of park,

recreation, beach, and open-space lands throughout Los Angeles County benefits all residents in the county.

(2) Protection, restoration, and improvement of these lands are vital to the quality of life for all residents in Los Angeles County.

(3) Increased park and recreation opportunities in the densely populated and heavily urbanized areas of Los Angeles County are vital to the health and well-being of all residents in the county, and providing these opportunities is a high priority.

(4) The protection and enhancement of the recreational opportunities provided by Los Angeles County's beaches, shoreline, and mountains must be included within the expenditure plan specified in subdivision (c) of Section 5506.9 in order to provide benefits to each resident of the county. The Legislature also finds and declares that, consistent with Division 23 (commencing with Section 33000), the Santa Monica Mountains Conservancy is a unique and valuable environmental, educational, and recreational resource; that as the last large undeveloped area within the greater Los Angeles metropolitan region it provides essential relief from the urban environment; and that the preservation and protection of this resource is in the public interest; and the Legislature further finds and declares that the acquisition of open-space lands by the conservancy provides a necessary benefit to each and every resident of Los Angeles County.

(5) The population of Los Angeles County continues to grow at an increasing rate, and already is far behind other urban areas in the state in providing adequate park, recreation, and open-space facilities for its residents. Creation of a regional park and open-space district with boundaries coterminous with those of Los Angeles County is critical to help address the growing and unmet park and recreation needs in Los Angeles County. It is therefore vital that Los Angeles County act immediately to address these issues.

SEC. 168. Section 5545.5 of the Public Resources Code is amended to read:

5545.5. (a) In addition to the tax authorized by Section 5545, the East Bay Regional Park District may, beginning with the fiscal year 1972–1973, levy and collect, or cause to be levied and collected, a tax of five cents ($0.05) on each one hundred dollars ($100) of the assessed value of all real and personal property within the district. The revenue from this tax shall be spent as follows:

(1) The revenue from four cents ($0.04) per one hundred dollars ($100) shall be spent exclusively for acquisition of new park lands.

(2) The revenue from one cent ($0.01) per one hundred dollars ($100) shall be spent exclusively for the development and operation of such park lands.

(b) Beginning with the fiscal year 1974–1975, the East Bay Regional Park District may levy and collect, or cause to be levied and collected, an additional tax of five cents ($0.05) on each one hundred dollars ($100) of the assessed value of all real and personal property within the district. This tax shall be in addition to the tax authorized

by subdivision (a) and may be levied only if, prior to the beginning of the 1974–1975 fiscal year, the district has prepared and adopted a master plan which identifies the district's policies and goals with regard to the acquisition of new park lands and lists the general type and quantity of such lands proposed to be acquired and the estimated cost thereof. The revenue from this tax shall be divided in the same ratio, and shall be used for the same purposes, as the revenues from the tax authorized by subdivision (a).

(c) Beginning with the fiscal year 1982–1983, the taxes authorized by subdivisions (a) and (b) may be levied to carry out any of the objects or purposes of the district or to pay the obligations of the district. If the district board finds and determines that the full amount of the taxes authorized by subdivisions (a) and (b) will not be needed to carry out the objects and purposes of the district, it need not levy, or cause to be levied, the full amount of the taxes which would otherwise be authorized by subdivisions (a) and (b). These taxes shall be in addition to those authorized by Section 5545.

(d) Any tax imposed pursuant to this section shall be imposed by ordinance of the district board. In the first fiscal year in which any tax authorized by subdivision (a), (b), or (c) is imposed, the ordinance imposing the tax shall not go into effect until 30 days after its final passage, and, notwithstanding Section 9141 of the Elections Code, the ordinance shall be subject to referendum pursuant to Section 9340 of the Elections Code. If it is lawfully possible, the district board shall consolidate the referendum election with another regular or special election.

SEC. 169. Section 5781.34 of the Public Resources Code is amended to read:

5781.34. The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following, in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition, prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The election officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 170. Section 9029 of the Public Resources Code is amended to read:

9029. "Voter" means an elector who is registered to vote pursuant to Chapter 2 (commencing with Section 2100) of Division 2 of the Elections Code, and residing within the district.

SEC. 171. Section 9164 of the Public Resources Code is amended

to read:

9164. The petition shall be signed by not less than 10 percent of the registered voters residing in the area to be included in the district, as determined by the local agency formation commission pursuant to subdivision (h) of Section 56375 of the Government Code. Sections 100 and 104 of the Elections Code shall govern the signing of the petition and its format.

SEC. 172. Section 9182 of the Public Resources Code is amended to read:

9182. (a) Notwithstanding Section 9181, if the board of supervisors of the principal county finds that the petition filed with the executive officer of the local agency formation commission pursuant to Section 9165 has been signed by not less than 80 percent of the registered voters residing within the area to be included within the district, the board may dispense with an election, adopt the resolution required pursuant to Section 9188, and designate the members of the board of directors pursuant to Article 4 (commencing with Section 9201).

(b) Notwithstanding Section 9181, if the local agency formation commission approves a consolidation or reorganization pursuant to Section 56839 of the Government Code which results in the formation of a district without an election, the commission may designate the members of the board of directors from the membership of the board of directors of any of the consolidated or reorganized districts pursuant to subdivision (k) of Section 56844 of the Government Code. The terms of office of the directors shall be determined pursuant to Section 10505 of the Elections Code.

SEC. 173. Section 9184 of the Public Resources Code is amended to read:

9184. (a) (1) The chief petitioners, the agency filing the resolution, or any member or members of the board of supervisors authorized by the board, any individual voter or bona fide association of citizens entitled to vote on the district formation proposition, or any combination of these voters and associations of citizens, may file with the elections official of the principal county a written argument for or a written argument against the proposed district formation.

(2) Arguments shall not exceed 300 words in length. Based on the time reasonably necessary to prepare and print the text of the proposition, analysis, arguments, and sample ballots and to permit the 10-day public examination period as provided in Section 9190 of the Elections Code for the particular election, the elections official of the principal county shall fix and determine a reasonable date prior to the election after which no arguments for or against the measure may be submitted for printing and distribution to the voters, pursuant to Section 9185. Notice of the date fixed shall be published by the elections official pursuant to Section 6061 of the Government Code. Arguments may be changed until and including the date fixed by the elections official.

(b) If more than one argument for or more than one argument

against the proposed district formation is filed with the elections official within the time prescribed, the elections official shall select one of the arguments for printing and distribution to the voters.

In selecting the arguments, the elections official shall give preference and priority in the order named to the arguments of the following:

(1) Chief petitioners, or the agency filing the resolution.

(2) The board of supervisors, or any member or members of the board authorized by the board.

(3) Individual voters, or bona fide associations of citizens or a combination of these voters and associations.

(c) When the elections official of the principal county has selected the arguments for and against the measure which will be printed and distributed to the voters, he or she shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the elections official of the principal county not more than 10 days after the final date for filing direct arguments. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut, and shall be titled "Rebuttal to Argument in Favor of Measure (or Proposition) _____" or "Rebuttal to Argument Against Measure (or Proposition) _____," the blank spaces being filled in only with the letter or number, if any, designating the measure. Words used in the title shall not be counted when determining the length of any rebuttal argument.

SEC. 174. Section 9185 of the Public Resources Code is amended to read:

9185. (a) The elections officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code. Section 9190 of the Elections Code shall apply to the materials required to be contained in the ballot pamphlet.

(b) The ballot pamphlet shall contain the following, in the order prescribed:

(1) The complete text of the proposition.

(2) The impartial analysis of the proposition, submitted by the executive officer of the local agency formation commission.

(3) The argument for the proposed district formation.

(4) The rebuttal to the argument in favor of the proposed district formation.

(5) The argument against the proposed district formation.

(6) The rebuttal to the argument against the proposed district formation.

SEC. 175. Section 9187 of the Public Resources Code is amended to read:

9187. (a) Except as otherwise provided in this division, the formation election and the election of members of the district board shall be held and conducted in accordance with the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code).

(b) If less than a majority of the votes cast at the election is in favor of forming the district, the board of supervisors of the principal county shall declare the proceedings terminated.

SEC. 176. Section 9314 of the Public Resources Code is amended to read:

9314. (a) The term of office of the directors, except those first elected, shall be four years. The expiration of the term of any director does not constitute a vacancy, and the director shall hold office until his or her successor has qualified.

(b) (1) As an alternative to the election of directors, the board of directors may, by a resolution presented to the board of supervisors of the principal county, request the board of supervisors to appoint directors, except those first elected. In any election year, the board of directors shall file its request with the board of supervisors no later than 125 days prior to the election. A copy of the resolution shall be furnished to the official responsible for conducting the election at the time it is presented to the board of supervisors of the principal county. The board of supervisors shall, by ordinance, appoint directors, after consultation with the board of supervisors of any other county which contains any part of the district, from those candidates who have filed an application, as specified in Section 10511 of the Elections Code, with the elections official. If the directors are to be appointed, a notice of election shall not be published, but a notice of vacancy shall be posted pursuant to Section 54974 of the Government Code.

This resolution shall remain in effect until rescinded by the board of directors, or until a petition requesting the rescission is received by the elections official. The petition shall be signed by 10 percent of the registered voters or 50 voters, whichever is the smallest number, in the district, and shall be received no later than the 120th day before the election. Upon verification by the elections official that the petition contains the requisite number of signatures, the resolution shall be rescinded.

(2) Appointment of directors by the board of supervisors does not affect the status of a district as an independent special district.

(3) If the board of supervisors does not conduct interviews of potential candidates or make an appointment within 60 days after the expiration of the term, the board of directors may make the appointment.

(c) It is the intent of the Legislature to encourage districts to opt for selection of directors by election, but where directors are appointed pursuant to subdivision (b), it is the intent of the

Legislature that the board of supervisors solicit recommendations from within the district, including public, private, and nonprofit entities, and appoint only applicants determined by the board of supervisors to have a demonstrated interest in soil and water conservation. In selecting directors pursuant to subdivision (b), the board of supervisors shall endeavor to achieve balanced representation on the board of directors of the district. In order to avoid undue financial burdens to districts and to thereby promote the objectives of this division, the Legislature hereby encourages counties to waive or minimize the charges for costs of elections conducted pursuant to this division.

SEC. 177. Section 26583 of the Public Resources Code is amended to read:

26583. Following the four-year term of the initially appointed board of directors formed pursuant to Section 26567 and composed of owners of real property within the district, the board of directors shall be composed of five elected directors. The term of office of directors shall be four years. The expiration of the term of any director shall not constitute a vacancy and he or she shall hold office until his or her successor has qualified. Elections shall be called and conducted, and the results canvassed, returned, and declared pursuant to the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code). This section shall not apply to a district where the legislative body has appointed itself as the board of directors.

SEC. 178. Section 49015 of the Public Resources Code is amended to read:

49015. (a) The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

(b) The ballot pamphlet shall contain all of the following in the order prescribed:

(1) The complete text of the proposition.

(2) The impartial analysis of the proposition prepared by the local agency formation commission.

(3) The argument for the proposed district formation.

(4) The argument against the proposed district formation.

(c) The election officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 179. Section 2887 of the Public Utilities Code is amended to read:

2887. (a) Whenever a telephone corporation initially establishes the boundaries for a new area code, the boundaries shall coincide with the boundaries of a city, or, if the area code is to include less than the entire area of a city, the corporation shall consider, among other things, the criteria set forth in Section 21601 of the Elections Code

in determining those boundaries.

(b) All local exchange telecommunications corporations shall provide notice to all of their California subscribers of the creation of a new area code within a reasonable time period prior to the implementation of the new area code.

SEC. 180. Section 11643.4 of the Public Utilities Code is amended to read:

11643.4. The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The election officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 181. Section 11828 of the Public Utilities Code is amended to read:

11828. (a) Except as otherwise provided in this division, the provisions of the Elections Code prescribed for independent nominations shall substantially govern the manner of appointment of circulators, the form of nomination papers and other forms, the securing of signatures, the filing of the candidate's declaration of candidacy, and all other things necessary to get the name of the candidate upon the ballot. At the time of issuance of nomination papers, the county elections official shall cause to be entered on the first page of each section of the nomination papers the name of the candidate and the office for which he or she is a candidate. The county elections official shall imprint a stamp on the first page of each section of the nomination papers which reads "Official Filing Form," and shall affix his or her signature. The county elections official shall keep a list containing the name and address of each candidate, the office for which he or she is a candidate, and the date on which the nomination papers were issued, which list shall be a public record.

(b) Circulators may obtain signatures to the nomination paper of any candidate at any time not more than 113 days nor less than 88 days prior to the election. Each section of the nomination papers shall bear the name of a county and only qualified voters of that county shall sign the section. Nomination papers shall be signed either by 1 percent or by 10 of the registered voters from within the district, whichever is the lesser number, but in no event by more than 20 registered voters from within the district. Nomination papers

shall be filed with the county elections official of the principal county containing the majority of the population of the ward from which the candidate is seeking election not more than 113 nor less than 88 days before the date of the election and shall be examined by the county elections official. If nomination papers for an incumbent director are not filed by 5 p.m. on the 88th day before the election, the voters shall have until 5 p.m. on the 83rd day before the election to nominate candidates other than the incumbent for that office. As soon as possible under the circumstances, the county elections official shall determine the number of valid signatures. If there are less than 10 valid signatures, the county elections official shall notify the candidate of that fact, and shall accept additional valid signatures at any time prior to the close of the period for circulating nomination papers. Each candidate, at least 88 days prior to the election, shall file a sufficient candidate's declaration of candidacy with the county elections official with whom he or she filed the nomination papers. The county elections official shall certify the names of all candidates at least 76 days prior to the date of the election so that their names may be placed upon the ballot.

SEC. 182. Section 11950 of the Public Utilities Code is amended to read:

11950. The initiative and referendum provisions of Chapter 4 (commencing with Section 9300) of Division 9 of the Elections Code shall apply to every municipal utility district.

SEC. 183. Section 12815.1 of the Public Utilities Code is amended to read:

12815.1. The board shall adopt an ordinance, in accordance with Section 12815, calling an election for the purpose of submitting to the voters of the district the proposition as to whether or not the voters approve the addition of fluorine and fluorine compounds to the public water supply of the district, when a petition for the election has been filed with, and certified as sufficient by, the secretary of the district. The election shall be conducted in accordance with Section 12815. Petitions meeting the requirements of Sections 12814 to 12816, inclusive, shall be in lieu of the initiative procedure provided by Article 1 (commencing with Section 9300) of Chapter 4 of Division 9 of the Elections Code.

SEC. 184. Section 12815.4 of the Public Utilities Code is amended to read:

12815.4. The petition shall declare that the public interest or necessity demands that a special election be called by the board of directors for the purpose of submitting to the voters of the district the proposition as to whether or not the voters approve the addition of fluorine and fluorine compounds to the public water supply of the district. The petition may be presented in sections, but each section shall contain a declaration of public interest or necessity, and shall have attached thereto an affidavit substantially in the same form as set forth in Section 9022 of the Elections Code. In addition, each section shall be designed as set forth in Section 9020 of the Elections

Code.

SEC. 185. Section 12818 of the Public Utilities Code is amended to read:

12818. (a) No publicly owned utility shall commence the distribution or sale of water for municipal, domestic, industrial or similar purposes for, on, or to, any land within a district already engaged in similar distribution or sale of water and which land is already subject to the lien of a general obligation bonded indebtedness of the district for these purposes. However, a publicly owned utility may commence to provide the service to the land, otherwise prohibited, upon either of the following conditions:

(1) If the board of directors of the district shall by resolution permit the service.

(2) In any portion of the district proposed to be served by the publicly owned utility in which the total number of registered voters residing therein exceeds 200, and in which at least two-thirds of the voters shall have voted at a special district election to permit the service. The election shall be called and held as an initiative measure pursuant to Article 1 (commencing with Section 9300) of Chapter 4 of Division 9 of the Elections Code.

(b) As used in this section, "district" shall mean only a municipal utility district.

SEC. 186. Section 15762.4 of the Public Utilities Code is amended to read:

15762.4. The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The election officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 187. Section 16461.5 of the Public Utilities Code is amended to read:

16461.5. (a) The Shasta Dam Area Public Utility District may construct those public works necessary for the industrial and commercial development of any undeveloped property owned by the district prior to January 12, 1990. A decision by the Shasta Dam Area Public Utility District to construct public works pursuant to this section is a legislative act subject to referendum pursuant to Article 2 (commencing with Section 9340) of Chapter 4 of Division 9 of the Elections Code. The improvements shall comply with all of the

ordinances, resolutions, policies, and other standards of the city or county in which the property is located, and comply with all state laws governing public works and public agencies.

(b) Any contract awarded by the Shasta Dam Area Public Utility District pursuant to this section shall be considered a public works project subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(c) None of the costs for public works constructed pursuant to this section shall be borne by Shasta Dam Area Public Utility District customers.

SEC. 188. Section 22229.4 of the Public Utilities Code is amended to read:

22229.4. The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The election officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 189. Section 22557 of the Public Utilities Code is amended to read:

22557. (a) The district may issue temporary negotiable notes bearing interest at a rate not exceeding 8 percent per annum. However, these notes shall be general obligations of the district payable from revenues and taxes, unless paid from other available funds of the district, in the same manner as bonds of the district. The maturity of the notes shall not be later than 20 years from the date thereof, and the total aggregate amount of the notes outstanding at any one time shall not exceed 2 percent of the assessed valuation of the taxable property in the district, or if the assessed valuation is not obtained, 2 percent of the county auditor's estimate of the assessed valuation of the taxable property of the district evidenced by his or her certificate. The total aggregate amount of these notes outstanding at any one time shall further not exceed the sum of five hundred thousand dollars ($500,000).

(b) Any note proposed to be issued pursuant to subdivision (a) with a term longer than five years shall not be issued until after a public hearing is conducted with respect to the issuance and a resolution is adopted approving the issuance. At least 15 days prior to the public hearing, the board shall cause notice of the hearing to be published pursuant to Section 6061 of the Government Code in

a newspaper published in the principal county. The resolution shall be subject to referendum pursuant to Section 9340 of the Elections Code and shall so provide. Within 15 days after adoption of the resolution of issuance, the board shall cause the resolution to be published at least once in a newspaper of general circulation published in the principal county, or if there is none, posted in at least three public places in the district.

SEC. 190. Section 22557.5 of the Public Utilities Code is amended to read:

22557.5. (a) Notwithstanding Section 22557, the Big Bear Airport District may issue temporary negotiable notes bearing interest at a rate not exceeding the maximum rate permitted pursuant to Section 53531 of the Government Code. These notes shall be general obligations of the district payable from revenues and taxes, unless paid from other available funds of the district, in the same manner as bonds of the district. The notes shall mature not later than 20 years from the date thereof, and the total aggregate amount of notes outstanding at any one time shall not exceed 2 percent of the assessed valuation of the taxable property in the district, or if the assessed valuation is not obtained, 2 percent of the county auditor's estimate of the assessed valuation of the taxable property of the district evidenced by the auditor's certificate. The total aggregate amount of notes outstanding at any one time shall further not exceed one million five hundred thousand dollars ($1,500,000).

(b) Any note proposed to be issued pursuant to subdivision (a) with a term longer than five years shall not be issued until after a public hearing is conducted with respect to the issuance and a resolution is adopted approving the issuance. At least 15 days prior to the public hearing, the board shall cause notice of the hearing to be published pursuant to Section 6061 of the Government Code in a newspaper published in the principal county. The resolution is subject to referendum pursuant to Section 9340 of the Elections Code and shall so provide. Within 15 days after adoption of the resolution of issuance, the board shall cause the resolution to be published at least once in a newspaper of general circulation published in the principal county, or if there is none, posted in at least three public places in the district.

SEC. 191. Section 24501.5 of the Public Utilities Code is amended to read:

24501.5. Notwithstanding any other provision of law, except Section 24826, elections for the Alameda-Contra Costa Transit District shall be conducted in accordance with the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code). Any costs incurred by county officials shall be paid by the transit district.

SEC. 192. Section 24828 of the Public Utilities Code is amended to read:

24828. Except as otherwise provided in this part, the provisions of the Elections Code prescribed for independent nominations shall

substantially govern the manner of appointment of verification deputies, the form of nomination papers and the securing of signatures, the filing of the candidate's affidavit, and all other things necessary to get the name of the candidate upon the ballot. However, not more than 95 days prior to the election, upon request, the secretary of the district shall issue nomination papers and all other forms required for nomination to the office of director. Verification deputies may obtain signatures to the nomination paper of any candidate at any time not more than 95 days nor less than 74 days prior to the election, and all nomination papers shall be filed with the secretary of the district not more than 90 nor less than 74 days before the date of the election and shall be examined by him. Each candidate, at least 74 days prior to the election, shall file a sufficient candidate's affidavit. The secretary of the district shall certify the names of all candidates to be placed upon the ballot to the county elections official or county elections officials within the territory affected at least 67 days prior to the date of election.

SEC. 193. Section 26210.5 of the Public Utilities Code is amended to read:

26210.5. The board shall comply with Article 3 (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code, the provisions of which are applicable to any bond election held pursuant to this article. Wherever the words "county clerk" or "county elections official" appear in the Elections Code, the words "secretary of the board" shall be substituted, for the purposes of this article, and wherever the words "board of supervisors" appear in the Elections Code, the words "board of directors" shall be substituted, and wherever the words "district attorney or county counsel" appear in the Elections Code, the words "attorney for the district" shall be substituted.

SEC. 194. Section 28748 of the Public Utilities Code is amended to read:

28748. If a tie vote makes it impossible to determine which of two or more candidates has been elected, the existing board shall resolve the tie by lot and declare the results thereof as provided in Section 10551 of the Elections Code.

SEC. 195. Section 29161 of the Public Utilities Code is amended to read:

29161. Any election submitting the proposition of incurring indebtedness and the issuance of bonds called pursuant to this part, may be held separately, or may be consolidated with any other election authorized by law, at which the qualified voters of any county, city and county, or city are entitled to vote. However, in the event an election called pursuant to this part is consolidated with any other election, as provided by Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, the provisions of this part setting forth the procedure for the calling of the election called pursuant to this part shall be complied with, except that the resolution calling the election need not set forth the election

precincts or polling places, or the officers of election, which shall be the same as those set forth in the ordinance, order, resolution, notice, or other proceeding calling or providing for, or listing or designating the precincts, polling places, and election officers for the election with which the election called pursuant to this part is consolidated, and shall refer to the election or to the ordinance, order, resolution, notice, or other proceeding calling, providing for, or giving notice of the election, and which sets forth the precincts, polling places, and election officers. This reference may be made by giving the number or title or date of adoption of the ordinance, resolution, or order or to the date or proposed date of any publication of the notice and the name of the newspaper or proposed newspaper in which the notice has been or will be published or by any other definite description. Whenever a bond election called pursuant to this part is consolidated with a statewide general election held in the district, references to that general election shall be sufficient for all purposes of this part.

SEC. 196. Section 29164 of the Public Utilities Code is amended to read:

29164. All the expenses of holding the election shall be borne by the district, except when the election is consolidated with another election pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code, in which case the expense borne by the district shall be that agreed upon by the district and the other governing body or bodies calling the election.

SEC. 197. Section 29166 of the Public Utilities Code is amended to read:

29166. (a) The returns of the election shall be made and the votes shall be canvassed by the county elections official in each county contained in the district, within thirty (30) days after holding of the election, and the county elections officials, respectively, shall certify the result of the election in each county, respectively, to the board of the district.

(b) In the event that the election is consolidated with any other election, the returns of the election, the method of canvassing, and the results thereof shall be designated and declared in accordance with Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

SEC. 198. Section 30740.5 of the Public Utilities Code is amended to read:

30740.5. The board of directors or any officer or member or members thereof authorized by that body, or any individual voter or bona fide association, or any combination of voters and associations, may file a written argument for or against any district bond or tax measure. No argument shall exceed 300 words in length. The county elections official of the County of Los Angeles shall cause an argument for and an argument against the measure to be printed, and shall enclose a copy of both arguments printed on the same sheet of paper in an envelope with each sample ballot. The printed arguments are official matter within the meaning of those words as

used in Section 13303 of the Elections Code. Based on the time reasonably necessary to prepare and print the arguments and sample ballots for that election, the elections official shall fix and determine a reasonable date prior to the election after which no argument for or against the measure may be submitted to him or her for printing and distribution to the voters, as provided in this section. Arguments may be changed until and including the date fixed by the elections official. If more than one argument for or more than one argument against any measure is submitted to the elections official within the time prescribed, the elections official shall select one of the arguments in favor and one of the arguments against the measure for printing and distribution to the voters. The arguments so selected shall be those of bona fide supporters or opponents of the measure.

SEC. 199. Section 40235 of the Public Utilities Code is amended to read:

40235. The board shall comply with Article 3 (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code, the provisions of which are applicable to any bond election held pursuant to this article.

SEC. 200. Section 40334 of the Public Utilities Code is amended to read:

40334. The actual wording of the proposition on any short form of ballot card, label, or other device, regardless of the system of voting used, shall read as follows:

TRANSIT Authorizes the Orange County Transit District to impose a _____ percent sales tax for transit purposes.	Yes	
	No	

The proposition shall set forth the actual percent of the transaction and use taxes upon which the electors are voting.

The sample ballot to be mailed to the voters, under Section 13303 of the Elections Code, shall be the full proposition as set forth in the ordinance adopted pursuant to Section 40333.

SEC. 201. Section 50235 of the Public Utilities Code is amended to read:

50235. The board shall comply with the provisions of Article 3 (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code, the provisions of which are applicable to any bond election held pursuant to this article. Wherever the words "county clerk" or "county elections official" appear in the Elections Code the words "secretary of the board" shall be substituted, for the purposes of this article, and wherever the words "board of supervisors" appear in the Elections Code, the words "board of directors" shall be substituted, and wherever the words "district attorney or county

counsel" appear in the Elections Code, the words, "attorney for the district" shall be substituted.

SEC. 202. Section 70235 of the Public Utilities Code is amended to read:

70235. The board shall comply with Article 3 (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code, the provisions of which are applicable to any bond election held pursuant to this article.

SEC. 203. Section 90075 of the Public Utilities Code is amended to read:

90075. The election shall be called, noticed, held, and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, results declared, oaths of office administered, and all other proceedings incidental to and connected with the election shall be regulated and done, as nearly as may be practicable, in accordance with the provisions of law regulating municipal elections in general law cities.

For the purposes of the election, the terms "board of trustees" and "city clerk," respectively, as used in the Elections Code provisions respecting the conduct of elections in general law cities, shall mean the county board of supervisors and the registrar of voters, respectively, for the purpose of the election held under this act.

An election called pursuant to the provisions of this act may be consolidated with any other election pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

SEC. 204. Section 90610 of the Public Utilities Code is amended to read:

90610. The board shall comply with Article 3 (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code, the provisions of which are applicable to any bond election held pursuant to this article. Wherever the words "county clerk" or "county elections official" appear in the Elections Code the words "secretary of the board" shall be substituted, for the purposes of this article, and wherever the words "board of supervisors" appear in the Elections Code, the words "board of directors" shall be substituted, and wherever the words "district attorney or county counsel" appear in the Elections Code, the words "attorney for the district" shall be substituted.

SEC. 205. Section 96410 of the Public Utilities Code is amended to read:

96410. The board shall comply with Article 3, (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code, the provisions of which are applicable to any bond election held pursuant to this article. Wherever the words "county clerk" or "county elections official" appear in the Elections Code the words "secretary of the board" shall be substituted, for the purposes of this article, and wherever the words "board of supervisors" appear in the Elections

Code, the words "board of directors" shall be substituted, and wherever the words "district attorney or county counsel" appear in the Elections Code, the words "attorney for the district" shall be substituted.

SEC. 206. Section 98316 of the Public Utilities Code is amended to read:

98316. The board shall comply with Article 3, (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code, the provisions of which are applicable to any bond election held pursuant to this article. Wherever the words "county clerk" or "county elections official" appear in the Elections Code the words "secretary of the board" shall be substituted, for the purposes of this article, and wherever the words "board of supervisors" appear in the Elections Code, the words "board of directors" shall be substituted, and wherever the words "district attorney or county counsel" appear in the Elections Code, the words "attorney for the district" shall be substituted.

SEC. 207. Section 99503 of the Public Utilities Code is amended to read:

99503. A special election for a transit development board or a transit district shall be conducted pursuant to the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code).

SEC. 208. Section 100043 of the Public Utilities Code is amended to read:

100043. (a) The registrar of voters shall mail a notice of polling place, date and purpose of the election to each registered voter of the county.

(b) The provisions of Article 3 (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code relating to ballot arguments and analyses shall be applicable to the formation election. The general elections provisions of the Elections Code (as far as they may be applicable) relating to the qualifications of voters, the manner of voting, the form of the ballot, the duties of precinct and election officers, the canvassing of returns, and all other particulars shall govern the formation election.

SEC. 209. Section 101292 of the Public Utilities Code is amended to read:

101292. The bond election may be held separately, or it may be held on the same day as any other state, county, or city election, or any election held under the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code), and may be consolidated therewith.

SEC. 210. Section 101296 of the Public Utilities Code is amended to read:

101296. The board shall comply with Article 3 (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code, the provisions of which are applicable to any bond election held pursuant to this article. In the event the election is not conducted by the

county clerk, then whenever the words "county clerk" or "county elections official" appear in that article of the Elections Code, the words "secretary of the district" shall be substituted for the purposes of this article of this part. For the further purposes of this article, the following substitutions shall be made in all cases for the words set out in that article of the Elections Code: (a) "board of directors" in lieu of "board of supervisors"; and (b) "attorney for the district" in lieu of "district attorney or county counsel".

SEC. 211. Section 102204 of the Public Utilities Code is amended to read:

102204. Except as otherwise provided in this part, district elections shall be called, held, and conducted as provided by law for county elections. Except in cases of emergency or compelling public need, as determined by the district, district elections, including those held pursuant to Article 7 (commencing with Section 102330) or Article 8 (commencing with Section 102350), or Article 1 (commencing with Section 102500) of Chapter 7, shall be held and consolidated with city, county, or state elections, or any election held under the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code).

SEC. 212. Section 103074 of the Public Utilities Code is amended to read:

103074. The provisions of Article 3 (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code relating to ballot arguments and analyses shall be applicable to the formation election.

SEC. 213. Section 130411 of the Public Utilities Code is amended to read:

130411. (a) The actual wording of the proposition on any short form of ballot card, label, or other device, regardless of the system of voting used, shall read as follows:

TRANSPORTATION—ORANGE COUNTY TRANSPORTATION COMMISSION To improve, expand, construct, maintain, and operate the transportation system in the county, this proposition authorizes the Orange County Transportation Commission to adopt a _____ percent sales tax solely for transportation purposes.	YES NO	

(b) The proposition shall set forth the actual percent of the transactions and use tax upon which the electors are voting.

(c) The sample ballot to be mailed to the voters, under Section 13303 of the Elections Code, shall be the full proposition as set forth in the ordinance calling the election.

SEC. 214. Section 131108 of the Public Utilities Code is amended to read:

131108. (a) The board of supervisors, as part of the ballot proposition to approve the imposition of a retail transactions and use tax, may seek authorization to issue bonds as may be provided for in the adopted county transportation expenditure plan payable solely from the proceeds of the tax.

(b) The maximum bonded indebtedness which may be authorized shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax, as determined by the plan.

(c) The proposition shall set forth the actual percent of the tax.

(d) The proposition shall set forth the duration of the tax if the plan specifies a time limit.

(e) The proposition shall set forth the amount of bonds, if any, payable from the proceeds of the tax.

(f) The proposition shall set forth either a county transportation authority or the commission as the agency imposing the tax.

(g) For an entity formed after 1978 which does not have an appropriations limit, the proposition shall include a limit pursuant to Article XIII B of the Constitution.

(h) The sample ballot to be mailed to the voters, pursuant to Section 13303 of the Elections Code, shall be the full proposition, as set forth in the ordinance calling the election, and the voter information handbook shall include the entire adopted county transportation expenditure plan.

SEC. 215. Section 180203 of the Public Utilities Code is amended to read:

180203. (a) The county shall conduct the special election called by the board of supervisors pursuant to Section 180201. If the measure is approved, the authority shall reimburse the county for its cost in conducting the special election.

(b) The special election shall be called and conducted in the same manner as provided by law for the conduct of special elections by a county.

(c) The sample ballot to be mailed to the voters, pursuant to Section 13303 of the Elections Code, shall be the full proposition, as set forth in the ordinance calling the election, and the voter information handbook shall include the entire adopted county transportation expenditure plan.

SEC. 216. Section 190308 of the Public Utilities Code is amended to read:

190308. (a) If requested to do so by the commission in its resolution calling for an election, the board of supervisors, as part of the ballot proposition to approve the imposition of a retail transactions and use tax, may seek authorization to issue bonds for capital outlay expenditures as may be provided for in the ordinance expenditure plan payable solely from the proceeds of the tax.

(b) The maximum bonded indebtedness that may be outstanding

at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax, as determined by the plan. The amount of bonds outstanding at any one time does not include the amount of bonds, refunding bonds, or bond anticipation notes for which funds necessary for the payments thereof have been set aside for that purpose in a trust or escrow account.

(c) The proposition shall set forth the actual percent of the tax.

(d) The proposition shall set forth the duration of the tax if the plan specifies a time limit.

(e) The proposition shall set forth the amount of bonds, if any, payable from the proceeds of the tax.

(f) The proposition shall set forth the commission as the agency imposing the tax.

(g) The proposition shall set forth the appropriations limit of the commission pursuant to Section 4 of Article XIII B of the California Constitution.

(h) The sample ballot to be mailed to the voters, pursuant to Section 13303 of the Elections Code, shall be the full proposition, as set forth in the ordinance calling the election, and the voter information handbook shall include the entire ordinance expenditure plan.

SEC. 217. Section 240308 of the Public Utilities Code is amended to read:

240308. (a) If requested to do so by the commission in its resolution calling for an election, the board of supervisors, as part of the ballot proposition to approve the imposition of a retail transactions and use tax, may seek authorization to issue bonds for capital outlay expenditures as may be provided for in the ordinance expenditure plan payable from the proceeds of the tax.

(b) The maximum bonded indebtedness that may be outstanding at any one time shall be an amount equal to the sum of the principal of, and interest on, the bonds, but not to exceed the estimated proceeds of the tax, as determined by the plan. The amount of bonds outstanding at any one time does not include the amount of bonds, refunding bonds, or bond anticipation notes for which funds necessary for the payment thereof have been set aside for that purpose in a trust or escrow account.

(c) The proposition shall set forth each of the following:

(1) The actual percent of the tax.

(2) The duration of the tax if the plan specifies a time limit.

(3) The amount of bonds, if any, payable from the proceeds of the tax.

(4) The commission as the agency imposing the tax.

(5) The appropriations limit of the commission, pursuant to Section 4 of Article XIII B of the California Constitution.

(g) The sample ballot to be mailed to the voters, pursuant to Section 13303 of the Elections Code, shall be the full proposition, as set forth in the ordinance calling the election, and the voter

information handbook shall include the entire ordinance expenditure plan.

SEC. 218. Section 2287 of the Revenue and Taxation Code is amended to read:

2287. A maximum property tax rate election shall be held according to the law otherwise applicable to elections held by the local agency; provided that the governing body of the local agency may authorize the use of mailed ballots whenever the local agency makes a determination that the use of mailed ballots is less costly or in any manner more feasible than other election procedures. When a mailed ballot is used, the election shall not be subject to the limitations contained within Sections 1000 to 1002, inclusive, of the Elections Code.

SEC. 219. Section 2288 of the Revenue and Taxation Code is amended to read:

2288. A maximum property tax rate election held by a local agency formed under a law that does not provide a procedure for elections shall be conducted by the county elections official, as follows:

(a) The election shall be held not less than 74 days nor more than 120 days following the call of the election by the governing body of the local agency. The call of the election shall specify whether the election shall be by mailed ballots or not.

(b) Not less than 15 days nor more than 30 days before the election, the county elections official shall compile the index of voters eligible to vote in the election as of the 30th day preceding the election, establish the election board, precinct boards, and precincts, as needed, and mail out the ballots or sample ballots.

(c) Except as provided herein, an election subject to this section shall be called, conducted, and canvassed as provided in the Elections Code for the calling, conducting, and canvassing of general elections.

(d) The local agency shall reimburse the county in full for the services performed by the county clerk upon presentation of a bill to the local agency.

(e) In the event that the governing body of a local agency authorizes the use of mailed ballots pursuant to Section 2287, the procedure to be used in mailing and canvassing the ballots shall be the procedure prescribed in Chapter 1 (commencing with Section 3000) of Division 3 and in Chapter 1 (commencing with Section 15000) of Division 15 of the Elections Code for the mailing and canvassing of absentee ballots; provided, however, that a ballot shall be mailed to each qualified voter and an application for a ballot shall not be required.

SEC. 220. Section 18705 of the Revenue and Taxation Code is amended to read:

18705. On or before each calendar year, the Secretary of State shall forward to the Franchise Tax Board a list of qualified political parties. Qualification in the State of California shall be determined

in accordance with Section 5100 of the Elections Code from the most recent election for which officially canvassed results are available. Any sums designated to a political party which are not qualified pursuant to this section shall be retained by the state for its General Fund.

(a) The Chairperson of the State Central Committee of each political party receiving payments pursuant to this chapter shall segregate those moneys and disburse them only upon his or her determination that a majority of a committee composed as follows concurs in each such disbursement:

(1) Chairperson of that party.

(2) As to the majority party of the Assembly, its Speaker; or, as to each minority party of the Assembly, that party's Minority Leader.

(3) As to the majority party of the Senate, its President pro Tempore; or, as to each minority party of the Senate, that party's Minority Leader.

(b) As to any party unrepresented by both paragraphs (2) and (3) of subdivision (a), its chairperson shall be the sole member of the committee provided for in subdivision (a).

(c) As to any party unrepresented by one, but not both, of the categories specified in paragraphs (2) and (3) of subdivision (a), the two members of that committee provided for by subdivision (a) shall choose a third member to serve for each calendar year.

(d) Any funds received by a committee's political party which are disbursed by the committee to candidates shall be disbursed only to candidates for state office in connection with a statewide general election.

SEC. 221. Section 5108.1 of the Streets and Highways Code is amended to read:

5108.1. (a) Notwithstanding any other provision of law, the election may be conducted by mailed ballot pursuant to Chapter 1 (commencing with Section 4000) of Division 4 of the Elections Code, regardless of the number of voters eligible to vote. Prior to the election, the legislative body shall provide for published notice of the election at least once a week for two weeks. Only one vote may be cast for each parcel of land within the territory proposed to be studied.

(b) If the landowner is a partnership, joint tenancy, corporation, or tenancy in common, the vote to which the landowner is entitled may be cast by any of the partners, joint tenants, or tenants in common. However, only one vote may be cast on behalf of the landowner.

(c) As used in this section:

(1) "Landowner" means any person shown on the last equalized assessment roll as the owner of land. However, if the ownership of the land is changed after the making of the last equalized assessment roll, the new owner thereof may vote upon the production of evidence of ownership of the land.

(2) "Parcel" means any parcel as identified on the last equalized

assessment roll.

SEC. 222. Section 10121 of the Streets and Highways Code is amended to read:

10121. (a) Notwithstanding any other provision of law, the election may be conducted by mailed ballot pursuant to Chapter 1 (commencing with Section 4000) of Division 4 of the Elections Code, regardless of the number of voters eligible to vote. Prior to the election, the legislative body shall provide for published notice of the election at least once a week for two weeks. Only one vote may be cast for each parcel of land within the territory proposed to be studied.

(b) If the landowner is a partnership, joint tenancy, corporation, or tenancy in common, the vote to which the landowner is entitled may be cast by any of the partners, joint tenants, or tenants in common. However, only one vote may be cast on behalf of the landowner.

(c) As used in this section:

(1) "Landowner" means any person shown on the last equalized assessment roll as the owner of land. However, if the ownership of the land is changed after the making of the last equalized assessment roll, the new owner thereof may vote upon the production of evidence of ownership of the land.

(2) "Parcel" means any parcel as identified on the last equalized assessment roll.

SEC. 223. Section 12944.5 of the Water Code is amended to read:

12944.5. (a) Notwithstanding any other provision of law to the contrary, any local public agency other than a city or county that has executed a contract with the state for a water supply pursuant to Section 12937 shall satisfy any requirement for the approval by the voters of the agency to secure authorization for the issuance of general obligation bonds of the agency or of the agency for any improvement district thereof to fund the acquisition and construction of works and facilities to enable the local public agency or improvement district to utilize the water supply, if a majority of the voters voting on the proposition to incur the bonded indebtedness vote in favor of the proposition. The provisions of law governing the issuance of general obligation bonds by the local public agency, including the provisions of the principal act of the local public agency, shall govern all matters relating to the issuance of the general obligation bonds, including the authorization, issuance, sale or retirement thereof, except only that a majority of the votes cast on the proposition to incur the bonded indebtedness need be in favor of such proposition in order to authorize the issuance of the bonds. This chapter shall be applicable only to general obligation bonds approved at an election held on one of the dates specified in Section 1000 of the Elections Code or at an election held pursuant to Section 4108 of the Elections Code.

(b) This chapter shall also be applicable to (1) any local public agency other than a city or a county which has executed a contract

for a water supply with a public agency which has in turn executed a contract with the state for a water supply pursuant to Section 12937, (2) any local public agency other than a city or county which is a member agency of, or is located within a member agency of, a metropolitan water district which has executed a contract with the state for a water supply pursuant to Section 12937, and (3) any local public agency other than a city or county which is a member agency of, or is located within a member agency of, a county water authority which is a member agency of a metropolitan water district which has executed a contract with the state for a water supply pursuant to Section 12937.

SEC. 224. Section 20527.10 of the Water Code is amended to read:

20527.10. (a) Notwithstanding Section 20527 or any other provision of law, in the Glenn Colusa Irrigation District, every owner of real property within the district, but no others, may vote at district elections. Owners need not be residents of the district in order to qualify as voters.

(b) The last equalized district assessment roll is conclusive evidence of ownership of the real property.

(c) (1) If land is owned in joint tenancy, tenancy in common, or any other multiple ownership, the owners of the land shall designate, in writing, which one of the owners is deemed the owner of the land for purposes of qualifying as a voter.

(2) The designation shall be made upon a form provided by the district, and shall be filed with the district at least 40 days prior to the election and shall remain in effect until amended or revoked. No amendment or revocation may occur within the period of 39 days prior to any election.

(d) The district shall provide a list of eligible voters pursuant to Section 10525 of the Elections Code at least 35 days prior to an election, which list shall provide for the limitation of one vote for each owner as specified in this section.

(e) The legal representative of a corporation or estate owning real property may vote on behalf of the corporation or estate.

(f) (1) Every voter, or his or her legal representative, may vote at any district election either in person or by a person appointed as his or her proxy, but may cast only one vote.

(2) The Glenn Colusa Irrigation District has the powers of a California water district with regard to Section 35005 and the appointment of a proxy shall be pursuant to that section.

(g) Notwithstanding Section 21100 or any other provision of law, any voter, as specified in this section, may be a member of the Board of Directors of the Glenn Colusa Irrigation District as long as the voter is a landowner within the division that the voter represents, unless divisions are abolished as provided in Section 21550.

(h) (1) As used in this section, "legal representative" means an official of a corporation owning real property or a guardian, conservator, executor, or administrator of the estate of the holder of title to real property who is all of the following:

(A) Appointed under the laws of this state.

(B) Entitled to the possession of the estate's real property.

(C) Authorized by the appointing court to exercise the particular right, privilege, or immunity which the legal representative seeks to exercise.

(2) Before a legal representative votes at a district election, the legal representative shall present to the precinct board a certified copy of his or her authority which shall be kept and filed with the returns of the election.

SEC. 225. Section 20896 of the Water Code is amended to read:

20896. (a) The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

(b) The ballot pamphlet printed and mailed pursuant to this section shall contain all of the following in the order prescribed:

(1) The complete text of the proposition.

(2) The impartial analysis of the proposition prepared by the local agency formation commission.

(3) The argument for the proposed district formation.

(4) The argument against the proposed district formation.

(c) The election officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 226. Section 21101 of the Water Code is amended to read:

21101. Notwithstanding Sections 10505 and 10554 of the Elections Code, elective officers, irrespective of the method of their selection, take office as soon as they qualify, except that officers elected at a general district election take office at noon on the first Friday in December next following the general district election.

SEC. 227. Section 21285 of the Water Code is amended to read:

21285. Notwithstanding any other provision of law, in any district where there are not more than 15 voters at such time as the publication of notice of a general district election, no such general district election shall be held, and all offices shall be filled by appointment pursuant to Section 10515 of the Elections Code.

SEC. 228. Section 21555 of the Water Code is amended to read:

21555. With regard to submitting a proposal at the general district election, the notices required by Sections 12115 and 12116 of the Elections Code shall contain a statement of the change or changes proposed to appear on the ballot.

SEC. 229. Section 21560 of the Water Code is amended to read:

21560. If an order made pursuant to this article changes the number of divisions, the terms of office of all directors shall expire at noon on the first Friday in December following the next general district election after the order, and the directors elected at that election shall be equal in number to the number of divisions as changed and these directors shall at their first meeting classify

themselves and determine the length of their respective terms in the manner provided in subdivision (c) of Section 10505 of the Elections Code.

SEC. 230. Section 21588 of the Water Code is repealed.

SEC. 231. Section 22841 of the Water Code is amended to read:

22841. Notwithstanding Section 1304 of the Elections Code, the board of an irrigation district containing 500,000 acres or more may designate that the general district election shall be held on the day provided for the statewide direct primary election in Section 1201 of the Elections Code and consolidated with the statewide primary election, and thereafter all references to odd-numbered years with respect to those elections shall mean even-numbered years as nearly as may be applicable. A designation by the board changing the date of a general district election pursuant to this section shall be adopted by resolution of the board and filed with the county clerk of the principal county at least 90 days before the date of the next district general election that would occur had the designation not been made and at least 90 days before the next statewide direct primary election provided for in Section 1201 of the Elections Code.

SEC. 232. Section 22970 of the Water Code is amended to read:

22970. Notwithstanding anything to the contrary contained in Part 4 (commencing with Section 10500) of Division 10 of the Elections Code, in the event that in an irrigation district containing 500,000 acres or more there are three or more candidates for an elective office and at the general district election no one candidate for the elective office secures a majority of the votes cast, a runoff election shall be held.

SEC. 233. Section 30021 of the Water Code is amended to read:

30021. "Elector," "voter," and "precinct board" have respectively the same meaning as defined in the Elections Code, but an "elector" or "voter" shall also be a resident of the district or proposed district involved.

SEC. 234. Section 30293.4 of the Water Code is amended to read:

30293.4. The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 235. Section 30501 of the Water Code is amended to read:

30501. The directors first elected upon the formation of the district shall hold office pursuant to Section 10505 of the Elections Code.

SEC. 236. Section 30520 of the Water Code is amended to read:

30520. Within 30 days after the election of the first directors and thereafter within 30 days after taking office pursuant to Section 10554 of the Elections Code the directors shall meet and shall elect one of their number president and may elect one of their number vice president.

SEC. 237. Section 30700 of the Water Code is amended to read:

30700. The provisions of the Elections Code relating to the qualifications of electors, so far as they may be applicable, shall govern all water district elections except:

(a) To the extent that the provisions of the Elections Code pertaining to the qualification of voters at local elections are inconsistent with the provisions of that code pertaining to general elections, the provisions of the Elections Code pertaining to local elections shall control.

(b) This division shall control over any inconsistent provision of the Elections Code except the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code).

SEC. 238. Section 30731 of the Water Code is amended to read:

30731. If the question is submitted to the voters at a general district election, the notices required by Sections 12115 and 12116 of the Elections Code shall contain a statement of the question to appear on the ballot. If the question is submitted to the voters at any district election, other than a general district election, the notice of election and ballot shall contain a statement of the question.

SEC. 239. Section 30830 of the Water Code is amended to read:

30830. Ordinances may be passed by voters in accordance with Article 1 (commencing with Section 9100) of Chapter 2 of Division 9 of the Elections Code.

SEC. 240. Section 30831 of the Water Code is amended to read:

30831. Ordinances may be subject to referendum in accordance with Article 2 (commencing with Section 9140) of Chapter 2 of Division 9 of the Elections Code.

SEC. 241. Section 34402.4 of the Water Code is amended to read:

34402.4. The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 242. Section 35003.1 of the Water Code is amended to read:

35003.1. A district may, by ordinance adopted at least 90 days prior to any district election, determine that voters shall thereafter be ascertained pursuant to this section.

In that event, the county elections official shall prepare the voter list required by Section 10525 of the Elections Code based upon the last equalized assessment roll of each affected county corrected to reflect, in the case of transfers of land, those persons who as of the 45th day prior to the election appear as owners on the records in the office of the county assessor which the assessor will use to prepare the next ensuing equalized assessment roll and which shall be conclusive evidence of ownership and of the value of land so owned. Where only a portion of a parcel of land has been transferred, and the assessed value thereof and of the remaining parcel are not separately stated upon the roll, estimated assessed values therefor shall be made by the county assessor, and the estimates shall, for the purposes of this section, be considered the value of the land. If more than one person or entity are shown as the owners of record of a parcel of land, the county elections official shall apportion the voting rights between the owners based upon the respective record interests in the information with respect thereto as the county elections official deems correct, proper, and appropriate.

SEC. 243. Section 35100 of the Water Code is amended to read:

35100. District elections shall be conducted in conformity with the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) and any provisions of law generally applicable to districts organized under this division.

SEC. 244. Section 35106 of the Water Code is amended to read:

35106. This section shall apply only to landowner voting districts. The ballots used at any general district election in a landowner voting district, including bond elections, shall be provided by the county elections official pursuant to the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) and shall be in the following form:

(a) Each ballot shall have a perforated line across the top portion of the ballot two inches down and parallel to the top thereof. From this perforated line to the top of the ballot a vertical perforated line shall be placed in the center of the ballot.

(b) Above the perforated line and on both sides of the vertical perforation the ballot shall be printed with the name of the district, the date of the election and the ballot number. All ballots shall be numbered consecutively starting with number one.

(c) Above the perforated line and to the left of the vertical perforation shall be printed: "Number of votes entitled to cast:".

(d) Below the perforated line the following shall be printed in the order enumerated:

(1) The name of the district and the date of the election.

(2) "Number of votes entitled to cast:".

(3) A solid black line. Immediately under the line shall be printed: "Fold bottom of ballot up to this line."

(4) The names of the candidates, in accordance with the randomized alphabet as provided for in Section 13112 of the Elections Code.

(5) Any propositions, including authorizations to issue bonds, or other matters to be submitted to the voters.

(e) Appropriate squares shall be placed after each candidate and proposition on the right side of the ballot.

(f) Appropriate voting instructions may be placed on the ballot.

SEC. 245. Section 35107 of the Water Code is amended to read:

35107. This section shall apply only to landowner voting districts. The following procedures shall be used at the polls by the precinct board appointed pursuant to Section 12286 of the Elections Code:

(a) A roster of voters shall be kept by a member of the precinct board. Each qualified voter who votes shall sign the roster opposite his or her name.

(b) Any voter holding a proxy or authority of legal representative shall deliver it to the judge for inspection. If the proxy or authority is valid, the voter shall sign his or her own name followed by the word "proxy" or "authority" in the roster opposite the name of the person giving the proxy or the authority.

(c) A voter list of all persons eligible to vote shall be kept by a member of the precinct board. This list shall contain an alphabetical list of eligible voters indicating the number of votes each may cast. The list shall have an appropriate blank space for inserting the ballot number issued to each voter to the right of the number of votes to be cast, a blank space for inserting the number of votes cast by each voter, and a blank space to insert the roster line number of the voter's signature to the left of the printed name of the voter.

(d) As each voter signs the roster, the member of the precinct board keeping the voter list of persons casting ballots shall announce the number of votes the voter is entitled to cast. A member of the precinct board shall insert in ink or indelible pencil in both spaces on each voter's ballot the number of votes the voter is entitled to cast on that ballot. A member of the precinct board shall then place the number of that ballot on the voter list and shall also insert the roster line number of the voter's signature and the number of votes cast in the appropriate spaces.

(e) The ballot and the ballot number shall be checked by a member of the precinct board for accuracy. Any errors shall be corrected and initialed by that member.

(f) The ballot shall be folded by a member of the precinct board by placing the bottom of the ballot on the line marked for that purpose. The ballot shall be refolded by placing the folded bottom

on the line marked for folding so that the ballot is folded twice.

(g) The portion of the ballot above the perforated line and to the left of the vertical perforation shall be removed by a member of the precinct board. If a proxy or authority of legal representative is being voted, the proxy or authority shall be attached to the ballot slip.

(h) A member of the precinct board shall hand the folded ballot to the voter who shall take it into a voting booth which shall be so constructed as to insure privacy. The booth shall be provided with a rubber cross stamp and ink pad. The ballot shall be marked only with the rubber stamp by the voter.

(i) After voting the voter shall refold the ballot and deliver it to a member of the precinct board who shall examine only that portion of the ballot that is exposed above the fold line and check that the number of votes marked on the ballot corresponds with the number of votes on the ballot slip of that ballot. Any error in the number of votes shall be corrected by that member in ink or indelible pencil and initialed by two members of the precinct board. The remaining portion of the ballot above the perforated line, shall be removed and delivered to the voter. The folded ballot shall be placed into the ballot box. The ballot box shall be kept locked while the polls are open.

(j) The precinct board shall file as a part of the election records required by Section 10545 of the Elections Code the ballot slip and any proxy or authority of legal representative attached thereto.

SEC. 246. Section 35110 of the Water Code is amended to read:

35110. As soon as the result of the canvass by the county elections official is declared, the county elections official shall prepare and mail to the board of supervisors the statement prescribed in Section 10550 of the Elections Code.

SEC. 247. Section 35179 of the Water Code is amended to read:

35179. District elections shall be conducted in conformance with the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) and the laws generally applicable to districts created and operated pursuant to this division, except as follows:

(a) As permitted by Section 1304 of the Elections Code, the general district election shall be held on the first Tuesday after the first Monday in November of every even-numbered year.

(b) As permitted by Section 10555 of the Elections Code, the general district election shall be consolidated with the statewide election in accordance with Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

(c) Those directors whose terms of office expire on the last Friday in June of 1984 shall, instead, continue in their offices until the last Friday in November of 1984, and those directors whose terms of office expire on the last Friday in June of 1986 shall, instead, continue in their offices until the last Friday in November of 1986.

SEC. 248. Section 35191 of the Water Code is amended to read:

35191. At the first general district election following January 1,

1981, the number of directors to be elected shall correspond with the number of directors whose terms expire. The directors whose terms have not expired shall serve their unexpired terms under the qualification to hold office that existed prior to January 1, 1981. In that first election, and in all subsequent elections, the form of the ballot and the conduct of the election shall be governed by the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) for resident voting elections.

SEC. 249. Section 35216 of the Water Code is amended to read:

35216. At the first general district election following the effective date of this chapter, the number of directors to be elected shall correspond with the number of directors whose terms expire. The directors whose terms have not expired shall serve their unexpired terms under the qualification to hold office that existed prior to the effective date of this chapter. In that first election and in all subsequent elections, the form of the ballot and the conduct of the election shall be governed by the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) for resident voting elections.

SEC. 250. Section 35233 of the Water Code is amended to read:

35233. District elections shall be conducted in conformance with the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) and the laws generally applicable to districts created and operated pursuant to this division, except that during the transition period provided in Section 35232, the following shall apply:

(a) During the transition period, at district general elections, some directors shall be elected by resident voters while others shall be elected by landowner voters. Separate ballots shall be prepared and separate elections shall be conducted for those director positions which will be elected by resident voters and for those which will be elected by landowner voters. Notwithstanding Section 10555 of the Elections Code, these landowner voter elections and resident voter elections shall be conducted simultaneously.

(b) During the transition period, district elections shall continue, as presently authorized, to be conducted by all-mailed ballots pursuant to Section 4108 of the Elections Code. Following the transition period, the all-mailed ballot procedure may be revoked under the procedures of Section 4003 of the Elections Code or district elections may be consolidated with the statewide general election as provided by Section 10404 of the Elections Code.

(c) During the transition period, separate voter lists of resident voters and landowner voters eligible to vote within the district shall be prepared and maintained according to applicable provisions of law. Separate all-mailed ballot elections shall be held for the directors to be elected by resident voters and for those to be elected by landowner voters.

(d) During the transition period, district directors shall continue

to be elected on an at-large basis. Following the transition period, the district board of directors may determine to establish director divisions in accordance with Section 35215.

(e) During the transition period, the district board of directors shall consist of seven directors. Following the transition period, the number of directors on the district board of directors may be changed in accordance with Sections 34708 and 34708.5.

(f) During the transition period, any district election held for the purpose of obtaining voter approval for bonded or other indebtedness shall be conducted as a landowner voter election. Following the transition period, any district election held for the purpose of obtaining voter approval for bonded or other indebtedness shall be conducted as a resident voter election.

(g) During the transition period, a person who qualifies according to Section 35234 both to be a director elected by resident voters and a director elected by landowner voters may run for the district board of directors on both the resident voter ballot and the landowner voter ballot on the same election date. In the event that the same person is elected to the district board on both ballots, the person shall be declared elected on the resident voter ballot and not elected on the landowner voter ballot. The candidate with the next highest number of votes on the landowner voter ballot shall be declared elected. If this procedure results in fewer remaining candidates than there are landowner voter director positions to be filled, then the unfilled positions shall be treated as vacant and filled according to subdivision (h).

(h) During the transition period, any vacancy on the district board shall be filled according to the procedures contained in Section 1780 of the Government Code. To be eligible to fill a vacancy, a person shall be qualified to be a director according to Section 35234 either as a director elected by resident voters if the person who vacated the position was elected by resident voters, or as a director elected by landowner voters if the person who vacated the position was elected by landowner voters.

SEC. 251. Section 35246 of the Water Code is amended to read:

35246. (a) At the first general district election following January 1, 1994, all directors shall be elected. The terms of office of those directors who are in office on January 1, 1994, shall be shortened and shall expire upon the election and qualification of their successors at that first general district election described in this subdivision. In that first district election and in all subsequent elections, the form of the ballot and the conduct of the election shall be governed by the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) for resident voting elections.

(b) Immediately following the general district election described in subdivision (a), the directors so elected at that election shall determine by lot as to those two directors who shall serve two-year terms and as to the three directors who shall serve four-year terms.

Except as provided in this subdivision, all directors shall serve four-year terms.

SEC. 252. Section 35266 of the Water Code is amended to read:

35266. (a) At the November 1994, general district election, the terms of office of the three directors who, or whose predecessors, were elected in 1991, shall be shortened and shall expire upon the election and qualification of their successors. At the November 1996, general district election, the terms of office of the two directors who, or whose predecessors, were elected in 1993, shall be shortened and shall expire upon the election and qualification of their successors.

(b) The general district election shall be held on the first Tuesday after the first Monday of November in each even-numbered year to choose a successor for each director, the term of whose office will expire on the last Friday in that month.

(c) Except as provided otherwise in this article, in each general district election the form of the ballot and the conduct of the election shall be governed by the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code) for resident voting elections.

SEC. 253. Section 35520.16 of the Water Code is amended to read:

35520.16. The election required by Section 35520.15 shall be called, noticed, and held in the manner provided for bond elections by Chapter 2 (commencing with Section 35100) and Chapter 3 (commencing with Section 35150) of Part 4, except as follows:

(a) The election shall be held on any Tuesday designated by the board which is not an election day designated in Section 1000 of the Elections Code and is not a state holiday or the day before or the day after a state holiday.

(b) Notwithstanding Section 35152.6, unless the voting procedure of the district has been changed from a landowner voting district to a resident voting district pursuant to Article 3 (commencing with Section 35040) of Chapter 1 of Part 4, the qualified voters at the election shall be determined according to Article 1 (commencing with Section 35003) of Chapter 1 of Part 4.

SEC. 254. Section 50706 of the Water Code is repealed.

SEC. 255. Section 50780.10 of the Water Code is amended to read:

50780.10. A "voter" means either of the following:

(a) A landowner or the legal representative of a landowner.

(b) A voter as defined in Section 363 of the Elections Code who resides within the boundaries of the district.

(c) A voter as defined in subdivision (a) may vote for both parcel seats and land assessment seats.

(d) A voter as defined in subdivision (a) who is also a voter as defined in subdivision (b) may vote for both resident voter seats and land assessment seats.

SEC. 256. Section 55184.4 of the Water Code is amended to read:

55184.4. The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter

entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The election officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 257. Section 56018.4 of the Water Code is amended to read:

56018.4. The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 258. Section 70041.4 of the Water Code is amended to read:

70041.4. The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 259. Section 70071 of the Water Code is amended to read:

70071. The three directors elected at the election held pursuant to the provisions of the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code), or appointed pursuant to Section 10515 of the Elections Code,

shall take office at 12 o'clock noon on the first Monday after the January 1st succeeding their election. Directors shall hold office until their successors are elected and qualified.

SEC. 260. Section 70120 of the Water Code is amended to read:

70120. Except as otherwise provided in this part, districts governed under this part are subject to the provisions of the Uniform District Election Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code).

SEC. 261. Section 71017 of the Water Code is amended to read:

71017. "Voter" means a voter as defined in Section 359 of the Elections Code.

SEC. 262. Section 71163.4 of the Water Code is amended to read:

71163.4. The officials in charge of conducting the election shall cause a ballot pamphlet concerning the district formation proposition to be voted on to be printed and mailed to each voter entitled to vote on the district formation question.

The ballot pamphlet shall contain the following in the order prescribed:

(a) The complete text of the proposition.

(b) The impartial analysis of the proposition prepared by the local agency formation commission.

(c) The argument for the proposed district formation.

(d) The argument against the proposed district formation.

The elections officials shall mail a ballot pamphlet to each voter entitled to vote in the district formation election at least 10 days prior to the date of the election. The ballot pamphlet is "official matter" within the meaning of Section 13303 of the Elections Code.

SEC. 263. Section 71262 of the Water Code is amended to read:

71262. The board shall establish the boundaries of the seven divisions from which directors are elected in accordance with Chapter 6 (commencing with Section 71540) of Part 4. The additional directors shall be elected at a special district election which shall be called by the Board of Directors of Three Valleys Municipal Water District on the next available election date established by Chapter 1 (commencing with Section 1000) of Division 1 of the Elections Code that is 90 or more days after January 1, 1989. The two additional directors so elected and qualified shall take office on July 1, 1989, and shall hold office until their successors, who shall be elected at the district general election in 1992, take office. Thereafter, the two additional directors shall be elected to terms of four years.

SEC. 264. Section 71505 of the Water Code is amended to read:

71505. Candidates shall declare their candidacy and shall be nominated, election returns shall be canvassed, the election shall be held and conducted, the results shall be declared, and the certificates of election shall be issued, in the same manner as the declaration of candidacy, nomination, election, canvassing of returns, declaration of results, and issuance of certificates of election are made, declared, held, and conducted, and issued, under the Uniform District Election

Law (Part 4 (commencing with Section 10500) of Division 10 of the Elections Code).

SEC. 265. Section 71930.5 of the Water Code is amended to read:

71930.5. The provisions of this article apply only to bond elections called pursuant to this chapter. The provisions of Section 2502 of the Elections Code, relating to mandatory consolidation of elections, shall not apply to this chapter.

SEC. 266. Section 72760 of the Water Code is amended to read:

72760. The Marin Municipal Water District in Marin County shall not exercise any powers under this part by which the district incurs an indebtedness or liability exceeding in any year the income or revenue for that year, without the approval of a majority of the voters of the district voting at an election held within the district for that purpose. The election may be combined with any other election held within the district. If a majority of the votes cast at the election is in favor of the proposition, the county elections official shall immediately cause to be filed with the Secretary of State a certificate reciting that fact. Notwithstanding any provision of law to the contrary, Article 3 (commencing with Section 9160) of Chapter 2 of Division 9 of the Elections Code shall apply to that election.

SEC. 267. Section 74202 of the Water Code is amended to read:

74202. The directors of any district who are elected shall hold office pursuant to Section 10505 of the Elections Code.

SEC. 268. Section 5357 of the Welfare and Institutions Code is amended to read:

5357. All conservators of the estate shall have the general powers specified in Chapter 6 (commencing with Section 2400) of Part 4 of Division 4 of the Probate Code and shall have the additional powers specified in Article 11 (commencing with Section 2590) of Chapter 6 of Part 4 of Division 4 of the Probate Code as the court may designate. The report shall set forth which, if any, of the additional powers it recommends. The report shall also recommend for or against the imposition of each of the following disabilities on the proposed conservatee:

(a) The privilege of possessing a license to operate a motor vehicle. If the report recommends against this right and if the court follows the recommendation, the agency providing conservatorship investigation shall, upon the appointment of the conservator, so notify the Department of Motor Vehicles.

(b) The right to enter into contracts. The officer may recommend against the person having the right to enter specified types of transactions or transactions in excess of specified money amounts.

(c) The disqualification of the person from voting pursuant to Section 2208 of the Elections Code.

(d) The right to refuse or consent to treatment related specifically to the conservatee's being gravely disabled. The conservatee shall retain all rights specified in Section 5325.

(e) The right to refuse or consent to routine medical treatment unrelated to remedying or preventing the recurrence of the

conservatee's being gravely disabled. The court shall make a specific determination regarding imposition of this disability.

(f) The disqualification of the person from possessing a firearm pursuant to subdivision (e) of Section 8103.

SEC. 269. Section 5358.3 of the Welfare and Institutions Code is amended to read:

5358.3. At any time, a conservatee or any person on his behalf with the consent of the conservatee or his counsel, may petition the court for a hearing to contest the rights denied under Section 5357 or the powers granted to the conservator under Section 5358. However, after the filing of the first petition for hearing pursuant to this section, no further petition for rehearing shall be submitted for a period of six months.

A request for hearing pursuant to this section shall not affect the right of a conservatee to petition the court for a rehearing as to his status as a conservatee pursuant to Section 5364. A hearing pursuant to this section shall not include trial by jury. If a person's right to vote is restored, the court shall so notify the county elections official pursuant to subdivision (c) of Section 2210 of the Elections Code.

SEC. 270. Section 5364 of the Welfare and Institutions Code is amended to read:

5364. At any time, the conservatee may petition the superior court for a rehearing as to his status as a conservatee. However, after the filing of the first petition for rehearing pursuant to this section, no further petition for rehearing shall be submitted for a period of six months. If the conservatorship is terminated pursuant to this section, the court shall, in accordance with subdivision (c) of Section 2210 of the Elections Code, notify the county elections official that the person's right to register to vote is restored.

SEC. 271. The Legislature declares that the changes made by this act are technical and nonsubstantive in nature, and are necessitated by the reorganization of the Elections Code by SB 1547 of the 1993–94 Regular Session.

SEC. 272. This act shall become operative only if SB 1547 of the 1993–94 Regular Session is chaptered.

SEC. 273. Any section of any act enacted by the Legislature during the 1994 calendar year that takes effect on or before January 1, 1995, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section amended by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

CHAPTER 924

An act to amend Section 65089 of the Government Code, to repeal and add Section 40717.5 of the Health and Safety Code, and to add and repeal Section 22365 of the Vehicle Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 65089 of the Government Code is amended to read:

65089. (a) A congestion management program shall be developed, adopted, and updated biennially, consistent with the schedule for adopting and updating the regional transportation improvement program, for every county that includes an urbanized area, and shall include every city and the county. The program shall be adopted at a noticed public hearing of the agency. The program shall be developed in consultation with, and with the cooperation of, the transportation planning agency, regional transportation providers, local governments, the department, and the air pollution control district or the air quality management district, either by the county transportation commission, or by another public agency, as designated by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county.

(b) The program shall contain all of the following elements:

(1) (A) Traffic level of service standards established for a system of highways and roadways designated by the agency. The highway and roadway system shall include at a minimum all state highways and principal arterials. No highway or roadway designated as a part of the system shall be removed from the system. All new state highways and principal arterials shall be designated as part of the system. Level of service (LOS) shall be measured by Circular 212, (or by the most recent version of the Highway Capacity Manual), or by a uniform methodology adopted by the agency which is consistent with the Highway Capacity Manual. The determination as to whether an alternative method is consistent with the Highway Capacity Manual shall be made by the regional agency, except that the department shall make this determination instead if either (i) the regional agency is also the agency, as those terms are defined in Section 65088.1, or (ii) the department is responsible for preparing the regional transportation improvement plan for the county.

(B) In no case shall the LOS standards established be below the level of service E or the current level, whichever is furthest from level of service A. When the level of service on a segment or at an

intersection fails to attain the established level of service standard, a deficiency plan shall be adopted pursuant to Section 65089.4.

(2) A performance element that includes performance measures to evaluate current and future multimodal system performance for the movement of people and goods. At a minimum, these performance measures shall incorporate highway and roadway system performance, and measures established for the frequency and routing of public transit, and for the coordination of transit service provided by separate operators. These performance measures shall support mobility, air quality, land use, and economic objectives, and shall be used in the development of the capital improvement program required pursuant to paragraph (5), deficiency plans required pursuant to Section 65089.4, and the land use analysis program required pursuant to paragraph (4).

(3) (A) A trip reduction and travel demand element that promotes alternative transportation methods, including, but not limited to, carpools, vanpools, transit, bicycles, and park-and-ride lots; improvements in the balance between jobs and housing; and other strategies, including, but not limited to, flexible work hours, telecommuting, and parking management programs. The agency shall consider parking cash-out programs during the development and update of the trip reduction and travel demand element.

(B) The agency and respective air pollution control district or air quality management district shall coordinate the development of trip reduction responsibilities and shall avoid duplication of responsibilities between agencies. A multiple site employer, as specified in paragraph (4) of subdivision (e) of Section 40717 of the Health and Safety Code, shall have the option of complying with a district employer trip reduction rule, or a similar rule proposed pursuant to a federal implementation plan, and reporting directly to the district or a responsible federal or state agency. A multiple site employer that exercises this option shall be exempt from any employer-based trip reduction requirement imposed pursuant to the trip reduction and travel demand element.

(C) Except for subparagraph (B), nothing in this section prevents a local jurisdiction from adopting transportation demand management measures that include or exceed the requirements established by the agency or by the air pollution control district or air quality management district.

(4) A program to analyze the impacts of land use decisions made by local jurisdictions on regional transportation systems, including an estimate of the costs associated with mitigating those impacts. This program shall measure, to the extent possible, the impact to the transportation system using the performance measures described in paragraph (2). In no case shall the program include an estimate of the costs of mitigating the impacts of interregional travel. The program shall provide credit for local public and private contributions to improvements to regional transportation systems. However, in the case of toll road facilities, credit shall only be allowed

for local public and private contributions which are unreimbursed from toll revenues or other state or federal sources. The agency shall calculate the amount of the credit to be provided. The program established pursuant to this paragraph may require implementation through application of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code, to avoid duplication.

(5) A seven-year capital improvement program, developed using the performance measures described in paragraph (2), to determine effective projects that maintain or improve the performance of the multimodal system for the movement of people and goods, to mitigate regional transportation impacts identified pursuant to paragraph (4). The program shall conform to transportation-related vehicle emission air quality mitigation measures, and include any project that will increase the capacity of the multimodal system. It is the intent of the Legislature that, when roadway projects are identified in the program, consideration be given for maintaining bicycle access and safety at a level comparable to that which existed prior to the improvement or alternation. The capital improvement program may also include safety, maintenance, and rehabilitation projects that do not enhance the capacity of the system, but are necessary to preserve the investment in existing facilities.

(c) The agency, in consultation with the regional agency, cities, and the county, shall develop a uniform data base on traffic impacts for use in a countywide transportation computer model and shall approve transportation computer models of specific areas within the county that will be used by local jurisdictions to determine the quantitative impacts of development on the circulation system that are based on the countywide model and standardized modeling assumptions and conventions. The computer models shall be consistent with the modeling methodology adopted by the regional planning agency. The data bases used in the models shall be consistent with the data bases used by the regional planning agency. Where the regional agency has jurisdiction over two or more counties, the data bases used by the agency shall be consistent with the data bases used by the regional agency.

(d) (1) The city or county in which a commercial development will implement a parking cash-out program which is included in a congestion management program pursuant to subdivision (b), or in a deficiency plan pursuant to Section 65089.4, shall grant to that development an appropriate reduction in the parking requirements otherwise in effect for new commercial development.

(2) At the request of an existing commercial development that has implemented a parking cash-out program, the city or county shall grant an appropriate reduction in the parking requirements otherwise applicable based on the demonstrated reduced need for parking, and the space no longer needed for parking purposes may be used for other appropriate purposes.

(e) Pursuant to the federal Intermodal Surface Transportation

Efficiency Act of 1991 (Public Law 102-240) and regulations adopted pursuant to the act, the department shall submit a request to the Federal Highway Administration Division Administrator to accept the congestion management program in lieu of development of a new congestion management system otherwise required by the act.

SEC. 2. Section 40717.5 of the Health and Safety Code is repealed.

SEC. 3. Section 40717.5 is added to the Health and Safety Code, to read:

40717.5. (a) Any district which proposes to adopt or amend a rule or regulation pursuant to Section 40716 or 40717, which imposes any requirement on an indirect source to reduce vehicle trips or vehicle miles traveled, including, but not limited to, any rule or regulation affecting ridesharing or alternative transportation mode strategies, shall, prior to the adoption or amendment of the rule or regulation, do all of the following:

(1) Ensure, based upon the best available information, assumptions, and methodologies which are reviewed and adopted at a public hearing, that the proposed rule or regulation would require an indirect source to reduce vehicular emissions only to the extent that the district determines that the source contributes to air pollution by generating vehicle trips. In complying with this paragraph, a district shall make reasonable and feasible efforts to assign responsibility for existing and new vehicle trips in a manner which equitably distributes responsibility among indirect sources.

(2) Ensure that, to the extent feasible, the proposed rule or regulation does not require an indirect source to reduce vehicular trips which are required to be reduced by other rules or regulations adopted for the same purpose.

(3) Take into account the feasibility of implementing the proposed rule or regulation.

(4) Pursuant to Section 40922, consider the cost-effectiveness of the proposed rule or regulation.

(5) Determine that the proposed rule or regulation would not place any requirement on public agencies or on indirect sources which would duplicate any requirement placed upon those public agencies or indirect sources as a result of another rule or regulation adopted pursuant to Section 40716 or 40717.

(b) A district may delegate to any city or county the responsibility to implement a rule or regulation that is subject to subdivision (a). However, if an indirect source subject to the rule or regulation has sites located both within and outside of the jurisdiction of a city or county to which that responsibility has been delegated, the indirect source may elect to be subject to the implementation of that rule or regulation only by the district. Notwithstanding Section 40454 or subdivision (b) of Section 40927, an indirect source which elects to be regulated only by a district pursuant to this subdivision may also elect to include sites under district regulation that would not otherwise be subject to district regulation, and, in that event, shall not be subject to the implementation by a city or county of any

requirement contained in that rule or regulation.

(c) Any district which proposes to adopt or amend a rule or regulation which establishes employer-based trip reduction requirements shall, prior to the adoption or amendment of the rule or regulation, in addition to complying with subdivision (a), do all of the following:

(1) Ensure that the proposed rule or regulation consists of not more than the following:

(A) Provisions for the submittal of trip reduction plans by employers.

(B) Provisions for the review, approval, or disapproval of the plan by the district.

(C) Provisions for the implementation and enforcement of the plan.

(D) Provisions which ensure that an employer will not be found to be in violation of the rule or regulation for failure to achieve an average vehicle occupancy target if the employer has otherwise complied with the requirements of the rule or regulation.

(2) Hold a public hearing and adopt guidelines, which shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for determining the content of trip reduction plans which comply with this section.

(3) Authorize indirect sources subject to the rule or regulation to use alternative strategies to employer-based trip reduction programs, including, but not limited to, financial and market-based incentives, vehicle scrappage programs, and fleet conversion, which provide equivalent or greater vehicular emission reductions and which are not otherwise required to be achieved by statute or regulation.

(4) Encourage or require the use of ridesharing, vanpooling, flexible work hours, or other measures that reduce the number or length of vehicle trips.

(d) The state board, in consultation with the public, the regulated community, and other interested parties, shall develop, and adopt in a public hearing, within six months of the enactment of this section, and periodically update, a calculation methodology which shall be used by districts to determine emissions equivalency pursuant to paragraph (3) of subdivision (c). In developing the formula, the state board shall take into account and consider any suggestions made by those parties.

(e) (1) Nothing in this section constitutes an infringement on the existing authority of counties and cities to plan, control, or condition land use, or on the ability of a city, county, or other public agency to impose trip reduction measures pursuant to a voter-mandated growth management program.

(2) Nothing in this section provides or transfers new authority over land use to a district.

SEC. 4. Section 22365 is added to the Vehicle Code, to read:

22365. (a) Notwithstanding any other provision of law, any

county or city, which is contained, in whole or in part, within the South Coast Air Quality Management District, may, if the county or city determines that it is necessary to achieve or maintain state or federal ambient air quality standards for particulate matter, determine and declare by ordinance a prima facie speed limit that is lower than that which the county or city is otherwise permitted by this code to establish, for any unpaved road within the jurisdiction of the county or city and within the district. That declared prima facie speed limit shall be effective when appropriate signs giving notice thereof are erected along the road.

(b) This section shall remain in effect only until January 1, 1997, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 6. If both this bill and AB 1963 are chaptered and take effect, and AB 1963 amends Section 65089 of the Government Code, Section 1 of this bill shall not become operative, regardless of whether this bill is chaptered before or after AB 1963.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow the recently adopted market-based incentive program adopted in the South Coast Air Quality Management District to be implemented to the fullest possible extent, and to avoid duplicative or overlapping transportation control measures, it is necessary that this act take effect immediately.

CHAPTER 925

An act to add Section 11758 to the Government Code, relating to electronic data processing.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 11758 is added to the Government Code, to read:

11758. (a) Notwithstanding Section 11757, on or before January

1, 1996, the director shall develop a master plan with the assistance of an independent consultant that provides for networking between all state agencies in order to enable these agencies to communicate with each other, share data where appropriate, and maximize public access to this network. The director shall solicit input from all state agencies, the Legislature, public users, local government representatives, telecommunication industry representatives, cable industry representatives, and any other entities determined by the director to be necessary, and shall consider this information when developing the master plan. The director shall consult with the judicial council to coordinate the executive branch master plan with a judiciary master plan, if such a plan is developed. The plan shall include the following:

(1) A method whereby the public may access from a personal computer only public records contained on a state agency's network.

(2) A policy establishing the parameters for requiring state agencies to use software with a redacting capability that allows public access to public records without the disclosure of confidential information. For purposes of this paragraph, "redacting" means the electronic removal of data from an electronic file.

(3) An identification of the activities that need to be undertaken to implement the plan, with a corresponding time schedule, financial analysis, and person at the affected agency responsible for implementation of these activities.

(4) A state policy to be published in the State Administrative Manual regarding the release of state agency data retained electronically, in accordance with all provisions of law providing for the confidentiality of collected information including, but not limited to, the California Public Records Act (Ch. 3.5 (commencing with Section 6250), Div. 7, Title 1).

(5) An identification of short, medium, and long-range goals based on the principal policies and goals developed in the master planning process.

(b) Upon request, the plan shall be made available to any person or state agency. This information shall be made available in an electronic format in addition to any other format chosen by the Office of Information Technology to make this information available.

(c) The director shall create an inventory list of all computer hardware and software, as defined by the director, retained by each state agency and the purposes for which the hardware or software is used. This list shall be available upon request to any person or state agency.

(e) Funding for the development of the master plan as required by subdivision (a) shall be derived from a federal grant entitled "Creation of a Master Strategy for California's Public Information Infrastructure" received by the Trade and Commerce Agency for this purpose.

(f) For purposes of this section, the following definitions apply:

(1) "Director" means the Director of the Office of Information

and Technology.

(2) "Networking" means the electronic linking of computers.

CHAPTER 926

An act to amend Section 1719 of the Civil Code, and to amend Section 116.820 of the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 1719 of the Civil Code is amended to read:

1719. (a) Notwithstanding any penal sanctions that may apply, any person who makes, utters, draws, or delivers any check, or draft, or order upon any bank or depository, or person, or firm, or corporation, for the payment of money, which refuses to honor the same for lack of funds or credit to pay, or because the maker has no account with the drawee, or because the maker instructed the drawee to stop payment, and who fails to pay the same amount in cash to the payee within 30 days following a written demand therefor informing the maker of the provisions of this section, mailed to the maker by certified mail, shall be liable to the payee, in addition to the amount owing upon that check or draft or order, for damages of treble the amount so owing, but in no case less than one hundred dollars ($100), and in no case more than five hundred dollars ($500), plus the costs of mailing the written demand for payment. However, there shall be no cause of action under this section if a maker stops payment in order to resolve a good faith dispute with the payee. The payee is entitled to the damages only upon proving by clear and convincing evidence that there was no good faith dispute, as defined in subdivision (b).

(b) For purposes of this section, in the case of a stop payment the existence of a "good faith dispute" shall be determined by the trier of fact. A "good faith dispute" is one in which the court finds that the maker had a reasonable belief of his or her legal entitlement to withhold payment. Grounds for the entitlement include, but are not limited to, the following: services were not rendered, goods were not delivered, goods or services purchased are faulty, not as promised, or otherwise unsatisfactory, or there was an overcharge.

(c) In the case of a stop payment, the notice to the maker required by this section shall be in substantially the following form:

NOTICE

To: _____
(name of maker)
_____ is the payee of a check you wrote
(name of payee)
for $ _____ . The check was not paid because
(amount)
you stopped payment, and the payee demands payment. You may have a good faith dispute as to whether you owe the full amount. If you do not have a good faith dispute with the payee and fail to pay the payee the full amount of the check in cash within 30 days after this notice was mailed, you could be sued and held responsible to pay at least all of the following:

(1) The amount of the check.

(2) Damages of at least $100 or, if higher, three times the amount of the check up to $500.

(3) The cost of mailing this notice.

If the court determines that you do have a good faith dispute with the payee, you will not have to pay the damages and mailing cost mentioned above. If you stopped payment because you have a good faith dispute with the payee, you should try to work out your dispute with the payee. You can contact the payee at:

_____
(name of payee)
_____
(street address)
_____
(telephone number)

You may wish to contact a lawyer to discuss your legal rights and responsibilities.

_____
(name of sender of notice)

(d) In the case of a stop payment, a court may not award damages or costs under this section unless the court receives into evidence a copy of the written demand which, in that case, shall have been sent to the maker and a signed certified mail receipt showing delivery, or attempted delivery if refused, of the written demand to the maker's address.

(e) A cause of action under this section may be brought in small claims court, if it does not exceed the jurisdiction of that court, or in any other appropriate court. The payee shall, in order to recover damages because the maker instructed the drawee to stop payment, show to the satisfaction of the trier of fact that there was a reasonable effort on the part of the payee to reconcile and resolve the dispute prior to pursuing the dispute through the courts.

(f) A cause of action under this section may be brought in

municipal or justice court by an assignee of the payee. However, if the assignee is acting on behalf of the payee, for a flat fee or a percentage fee, the assignee may not charge the payee a greater flat fee or percentage fee for that portion of the amount collected that represents treble damages than is charged the payee for collecting the face amount of the check, draft, or order. This subdivision shall not apply to an action brought in small claims court.

(g) Notwithstanding subdivision (a), if the payee is a municipal court, the written demand for payment described in subdivision (a) may be mailed to the maker by a municipal court clerk. Notwithstanding subdivision (d), in the case of a stop payment where the demand is mailed by a municipal court clerk, a court may not award damages or costs pursuant to subdivision (d), unless the court receives into evidence a copy of the written demand, and a certificate of mailing by a municipal court clerk in the form provided for in subdivision (4) of Section 1013a of the Code of Civil Procedure for service in civil actions. For purposes of this subdivision, in courts where a single court clerk serves more than one court, the clerk shall be deemed the court clerk of each court.

SEC. 2. Section 116.820 of the Code of Civil Procedure is amended to read:

116.820. (a) The judgment of a small claims court may be enforced as provided in Title 9 (commencing with Section 680.010) of Part 2 and in Sections 674 and 1174 on the enforcement of judgments of other courts. A judgment of the superior court after a hearing on appeal, and after transfer to the small claims court under subdivision (d) of Section 116.780, may be enforced like other judgments of the small claims court, as provided in Title 9 (commencing with Section 680.010) of Part 2 and in Sections 674 and 1174 on the enforcement of judgments of other courts.

(b) Fees as provided in Sections 26828, 26830, and 26834 of the Government Code shall be charged and collected by the clerk for the issuance of a writ of execution, an order of examination of a judgment debtor, a motion to vacate, or an abstract of judgment.

(c) The prevailing party in any action subject to this chapter is entitled to the costs of enforcing the judgment and accrued interest.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 927

An act to add Article 9 (commencing with Section 60117) to Chapter 1 of Part 33 of, and to add Section 60252 to, the Education Code, relating to instructional materials, and making an appropriation therefor.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. The Legislature finds and declares that the California Supreme Court, in its 1976 decision, Serrano v. Priest (18 Cal. 3d 728), reaffirmed the principle that education is a fundamental interest which is secured by the state constitutional guarantee of equal protection under the law, and held invalid a school financing system that resulted in disparate educational opportunity. The Legislature further declares that, to the extent that every pupil does not have access to textbooks or instructional materials in each subject, a pupil's right to equal educational opportunity is impaired.

SEC. 2. Article 9 (commencing with Section 60117) is added to Chapter 1 of Part 33 of the Education Code, to read:

Article 9. Pupil Textbook and Instructional Materials Incentive Program

60117. This article shall be known and may be cited as the Pupil Textbook and Instructional Materials Incentive Program Act.

60119. (a) For the 1994–95 fiscal year and each fiscal year thereafter, in order to be eligible to receive funds available for the purposes of this article, the governing board of a school district shall take the following actions:

(1) The governing board shall hold a public hearing or hearings at which the governing board shall encourage participation by parents, teachers, members of the community interested in the affairs of the school district, and bargaining unit leaders, and shall make a determination, through a resolution, as to whether each pupil in each school in the district has, or will have prior to the end of that fiscal year, sufficient textbooks or instructional materials, or both, in each subject that are consistent with the content and cycles of the curriculum framework adopted by the state board.

(2) (A) If the governing board determines that there are insufficient textbooks or instructional materials, or both, the governing board shall provide information to classroom teachers and to the public setting forth the reasons that each pupil does not have sufficient textbooks or instructional materials, or both, and take any action, except an action that would require reimbursement by the Commission on State Mandates, to ensure that each pupil has

sufficient textbooks or instructional materials, or both, within a two-year period from the date of the determination.

(B) In carrying out subparagraph (A), the governing board may use money in any of the following funds:

(i) Any funds available for textbooks or instructional materials, or both, from categorical programs, including any funds allocated to school districts that have been appropriated in the annual Budget Act.

(ii) Any funds of the school district that are in excess of the amount available for each pupil during the prior fiscal year to purchase textbooks or instructional materials, or both.

(iii) Any other funds available to the school district for textbooks or instructional materials, or both.

(b) The governing board shall provide 10 days' notice of the public hearing or hearings set forth in subdivision (a). The notice shall contain the time, place, and purpose of the hearing and shall be posted in three public places in the school district.

(c) Except for purposes of Section 60252, governing boards of school districts that receive funds for instructional materials from any state source, are subject to the requirements of this section only in a fiscal year in which the Superintendent of Public Instruction determines that the base revenue limit for each school district will increase by at least 1 percent per unit of average daily attendance from the prior fiscal year.

SEC. 3. Section 60252 is added to the Education Code, to read:

60252. (a) The Pupil Textbook and Instructional Materials Incentive Account is hereby created in the State Instructional Materials Fund, to be used for the Pupil Textbook and Instructional Materials Incentive Program set forth in Article 9 (commencing with Section 60117) of Chapter 1. All money in the account shall be allocated by the Superintendent of Public Instruction to school districts maintaining any kindergarten or any of grades 1 to 12, inclusive, that satisfy each of the following criteria:

(1) A school district shall provide assurance to the Superintendent of Public Instruction that the district has complied with Section 60119.

(2) A school district shall ensure that the money will be used to carry out its compliance with Section 60119 and shall supplement any state and local money that is expended on textbooks or instructional materials, or both.

(b) The superintendent shall ensure that each school district has an opportunity for funding per pupil based upon the district's prior year base revenue limit in relation to the prior year statewide average base revenue limit for similar types and sizes of districts. Districts below the statewide average shall receive a greater percentage of state funds, and districts above the statewide average shall receive a smaller percentage of state funds, in an amount equal to the percentage that the district's base revenue limit varies from the statewide average. Any district with a base revenue limit that

equals or exceeds 200 percent of the statewide average shall not be eligible for state funding under this section.

SEC. 4. It is the intent of the Legislature that the Superintendent of Public Instruction administer this act as if it has been in effect for the entire 1994–95 fiscal year.

SEC. 5. Of the amount appropriated in the Budget Act of 1994 for instructional materials in Item 6110-186-001, nine million one hundred eighteen thousand dollars ($9,118,000) is hereby reappropriated to the Pupil Textbook and Instructional Materials Incentive Account in the State Instructional Materials Fund and shall be allocated pursuant to subdivision (b) of Section 60252 of the Education Code.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 928

An act to add and repeal Section 11380.5 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 11380.5 is added to the Health and Safety Code, to read:

11380.5. (a) (1) Notwithstanding any other provision of law, any person who is convicted of the possession for sale or the sale of heroin, cocaine, cocaine base, methamphetamine, or phencyclidine (PCP), in addition to the punishment imposed for that conviction, shall be imprisoned in the state prison for an additional one year if the violation occurred upon the grounds of a public park or ocean-front beach.

(2) For the purposes of this section, a "public park or ocean-front beach" includes adjacent public parking lots and sidewalks.

(b) The additional punishment provided in this section shall not be imposed unless the allegation is charged in the accusatory

pleading and admitted by the defendant or found to be true by the trier of fact.

(c) The additional punishment provided in this section shall not be imposed in the event that any other additional punishment is imposed pursuant to Section 11353.1, 11353.5, 11353.6, 11353.7, or 11380.1.

(d) Notwithstanding any other provision of law, the court may strike the additional punishment provided for in this section if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.

(e) This section shall apply to a public park or ocean-front beach only if the following conditions are satisfied:

(1) The city council or county board of supervisors having jurisdiction over the public park or ocean-front beach adopts an ordinance designating the public park or ocean-front beach as a "drug-free zone" pursuant to this section.

(2) Notice of this law is posted at the public park or ocean-front beach.

(f) This section shall remain in effect only until January 1, 1998, and as of that date is repealed.

CHAPTER 929

An act to amend Section 32600 of the Financial Code, and to amend Sections 15325, 15364.4, 15365.44, 15379.8, and 66503 of the Government Code, relating to commerce, and making an appropriation therefor.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 32600 of the Financial Code is amended to read:

32600. (a) The finance officer shall not execute any loan that is not:

(1) Approved for guarantee by the Small Business Administration, under that agency's prevailing standards for loans of similar type, purpose, amount, and duration that are in effect at the time the guarantee is approved by the agency.

(2) Approved for guarantee by another governmental loan guarantee authority, and the minimum amount of the guarantee is not less than 50 percent of the principal amount of the loan.

(3) Made pursuant to the corporation's participation with the Small Business Administration as a small business investment company or local development company.

(4) Less than 16 percent of the total financing package arranged between the corporation and another lender or lenders on behalf of the applicant.

(b) This section does not apply to loans made pursuant to Section 32724.

SEC. 2. Section 15325 of the Government Code is amended to read:

15325. The work of the agency shall be divided into at least the following:

(a) The Office of Economic Research.

(b) The Office of Local Development.

(c) The Office of Business Development.

(d) The Office of Tourism.

(e) The Office of Small Business.

(f) The Film Office.

(g) The Office of Marketing and Communications.

(h) The Office of Strategic Technology.

(i) The Office of Foreign Investment.

(j) World Trade Commission, including international trade and investment offices, Office of Export Development, and Export Finance Office.

(k) California Field Offices.

(*l*) Office of Trade Policy and Research.

(m) Office of Permit Assistance.

(n) Office of California-Mexico Affairs.

SEC. 3. Section 15364.4 of the Government Code is amended to read:

15364.4. (a) Each office of the commission, including any overseas trade office, shall be in the charge of an office director who shall be appointed, upon the recommendation of the director of the commission, by the Governor, unless otherwise specified. The office directors shall hold office at the pleasure of the director and shall receive a salary as fixed by the director with the approval of the Department of Personnel Administration.

(b) All employees of the California State World Trade Commission, as created in the Governor's office by Chapter 1387 of the Statutes of 1986, who, on the operative date of this section, are serving on the commission staff, other than as temporary employees, shall be transferred to the California State World Trade Commission established in the Trade and Commerce Agency. In accordance with Section 19050.9, the status, positions, and rights of these persons shall not be affected by the transfer, and, except as to positions exempt from civil service, they shall be subject to state civil service.

(c) The State Personnel Board shall authorize temporary appointment authority under Section 5 of Article VII of the California Constitution and Section 19059, and shall conduct examinations necessary to accomplish the prompt filling of employee positions in the California World Trade Commission. All persons employed by the California World Trade Commission on January 1,

1993, or current employees of the Trade and Commerce Agency in positions targeted to be converted to civil service may participate in departmental promotional examinations for the California World Trade Commission for a period of two years following the enactment of this legislation.

SEC. 4. Section 15365.44 of the Government Code is amended to read:

15365.44. There is hereby created in the State Treasury, the California Women's Business Ownership Fund. The fund shall consist of all private money donated to further the work of the council pursuant to this chapter and may be expended in an amount not to exceed twenty thousand dollars ($20,000) in the 1994–95 fiscal year. Funding in subsequent years shall be subject to appropriation by the Legislature in the annual Budget Act.

SEC. 5. Section 15379.8 of the Government Code is amended to read:

15379.8. (a) The agency may obtain scientific and technological expertise as needed to provide advice and input on the program, the establishment of targeted technologies and industries, the review of grant applications, and the review of project performance.

(b) The agency may award funds over a multiyear period to a grantee without requiring the grantee to reapply, so long as the funds in multiple years are utilized for the same project originally funded.

SEC. 6. Section 66503 of the Government Code is amended to read:

66503. The commission shall consist of 19 members as follows:

(a) Two members each from the City and County of San Francisco and the Counties of Alameda, Contra Costa, San Mateo, and Santa Clara. With respect to the members from San Francisco, the mayor shall appoint one member and the board of supervisors shall appoint one member. With respect to the members from Alameda, Contra Costa, San Mateo, and Santa Clara Counties, the city selection committee organized in each county pursuant to Article 11 (commencing with Section 50270) of Chapter 1 of Part 1 of Division 1 of Title 5, shall appoint one member and the board of supervisors shall appoint one member.

(b) One member each from Marin, Napa, Solano, and Sonoma Counties. The city selection committee of these counties shall furnish to the board of supervisors the names of three nominees and the board of supervisors shall appoint one of the nominees to represent the county.

(c) One representative each appointed by the Association of Bay Area Governments and the San Francisco Bay Conservation and Development Commission.

(d) One representative, who shall be a nonvoting member, appointed by the Secretary of the Business, Transportation and Housing Agency.

(e) One representative each appointed by the United States

Department of Transportation and Department of Housing and Urban Development. However, these representatives shall serve only if the agencies they represent are amenable to these appointments. These representatives shall be nonvoting members.

(f) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

CHAPTER 930

An act to amend Section 25299.37 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 25299.37 of the Health and Safety Code is amended to read:

25299.37. (a) Each owner, operator, or other responsible party shall take corrective action in response to an unauthorized release in compliance with this section and regulations adopted pursuant to Section 25299.77. In adopting regulations pursuant to Section 25299.77, the board shall develop corrective action requirements for health hazards and protection of the environment, based on the severity of the health hazards and the other factors listed in subdivision (b).

(b) Any corrective action conducted pursuant to this section shall ensure protection of human health, safety, and the environment. The corrective action shall be consistent with any applicable waste discharge requirements or other order issued pursuant to Division 7 (commencing with Section 13000) of the Water Code, all applicable state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code, and all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code.

(c) The local agency may issue an order to the owner, operator, or other responsible party requiring compliance with this section, including a time schedule for the completion of specific actions. The board or a regional board may require compliance with this section as part of a cleanup and abatement order issued pursuant to Section 13304 of the Water Code. The owner, operator, or other responsible party shall conduct corrective action in accordance with any order issued by a local agency or cleanup and abatement order issued pursuant to this section.

(d) A person to whom an order is issued pursuant to subdivision (c) shall have the same rights of administrative and judicial appeal and review as are provided by law for cleanup and abatement orders issued pursuant to Section 13304 of the Water Code.

(e) Until the board adopts regulations pursuant to Section 25299.77, the owner, operator, or other responsible party shall take corrective action in accordance with Chapter 6.7 (commencing with Section 25280) and the federal act.

(f) If a person to whom an order is issued pursuant to subdivision (c) does not comply with the order, the regional board or the local agency may undertake or contract for corrective action and recover costs pursuant to Section 25299.70.

CHAPTER 931

An act to amend Section 646.9 of the Penal Code, relating to prisoners.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 646.9 of the Penal Code is amended to read:

646.9. (a) Any person who willfully, maliciously, and repeatedly follows or harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family, is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

(b) Any person who violates subdivision (a) when there is a temporary restraining order, injunction, or any other court order in effect prohibiting the behavior described in subdivision (a) against the same party, shall be punished by imprisonment in the state prison for two, three, or four years.

(c) Every person who, having been convicted of a felony under this section, commits a second or subsequent violation of this section shall be punished by imprisonment in the state prison for two, three, or four years.

(d) For the purposes of this section, "harasses" means a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the person. "Course of conduct" means a pattern of conduct composed

of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(e) For the purposes of this section, "credible threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family. The present incarceration of a person making the threat shall not be a bar to prosecution under this section.

(f) This section shall not apply to conduct that occurs during labor picketing.

(g) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under this section, it shall be a condition of probation that the person participate in counseling, as designated by the court. However, the court, upon a showing of good cause, may find that the counseling requirement shall not be imposed.

(h) The court shall also consider issuing an order restraining the defendant from any contact with the victim, that may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any restraining order be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and his or her immediate family. The duration of the restraining order may be longer than five years only in an extreme case, where a longer duration is necessary to protect the safety of the victim or his or her immediate family.

(i) For purposes of this section, "immediate family" means any spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

(j) The court shall consider whether the defendant would benefit from treatment pursuant to Section 2684. If it is determined to be appropriate, the court shall recommend that the Department of Corrections make a certification as provided in Section 2684. Upon the certification, the defendant shall be evaluated and transferred to the appropriate hospital for treatment pursuant to Section 2684.

SEC. 1.5. Section 646.9 of the Penal Code is amended to read:

646.9. (a) Any person who willfully, maliciously, and repeatedly follows or harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family, is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.

(b) Any person who violates subdivision (a) when there is a

temporary restraining order, injunction, or any other court order in effect prohibiting the behavior described in subdivision (a) against the same party, shall be punished by imprisonment in the state prison for two, three, or four years.

(c) Every person who, having been convicted of a felony under this section, commits a second or subsequent violation of this section shall be punished by imprisonment in the state prison for two, three, or four years.

(d) For the purposes of this section, "harasses" means a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the person. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(e) For the purposes of this section, "credible threat" means a verbal or written threat or a threat implied by a pattern of conduct or a combination of verbal or written statements and conduct made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family. The present incarceration of a person making the threat shall not be a bar to prosecution under this section.

(f) This section shall not apply to conduct that occurs during labor picketing.

(g) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under this section, it shall be a condition of probation that the person participate in counseling, as designated by the court. However, the court, upon a showing of good cause, may find that the counseling requirement shall not be imposed.

(h) The court shall also consider issuing an order restraining the defendant from any contact with the victim, that may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any restraining order be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim and his or her immediate family. The duration of the restraining order may be longer than five years only in an extreme case, where a longer duration is necessary to protect the safety of the victim or his or her immediate family.

(i) For purposes of this section, "immediate family" means any spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

(j) The court shall consider whether the defendant would benefit

from treatment pursuant to Section 2684. If it is determined to be appropriate, the court shall recommend that the Department of Corrections make a certification as provided in Section 2684. Upon the certification, the defendant shall be evaluated and transferred to the appropriate hospital for treatment pursuant to Section 2684.

(k) (1) The Department of Corrections, county sheriff, or director of the local department of corrections shall give notice not less than 15 days prior to the release from the state prison or a county jail of any person who is convicted of violating this section or convicted of a felony offense involving domestic violence, as defined in Section 6211 of the Family Code, to any person the court identifies as a victim of the offense, a family member of the victim, or a witness to the offense by telephone and certified mail at his or her last known address, upon request. A victim, family member, or witness shall keep the Department of Corrections or county sheriff informed of his or her current mailing address and telephone number to be entitled to receive notice. A victim may designate another person for the purpose of receiving notification. However, the duty to keep the Department of Corrections or county sheriff informed of a current mailing address and telephone number shall remain with the victim.

(2) All information relating to any person who receives notice under this subdivision shall remain confidential and shall not be made available to the person convicted of violating this section.

(3) For purposes of this subdivision, "release" includes a release from the state prison or a county jail because time has been served, a release from the state prison or a county jail to parole or probation supervision, or an escape from an institution or reentry facility.

(4) The Department of Corrections or county sheriff shall give notice of an escape from an institution or reentry facility of any person convicted of violating this section or convicted of a felony offense involving domestic violence, as defined in Section 6211 of the Family Code, to the notice recipients described in paragraph (1).

(5) Substantial compliance satisfies the notification requirements of paragraph (1).

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 646.9 of the Penal Code proposed by both this bill and AB 95 (1st Ex. Sess.). It shall become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 646.9 of the Penal Code, and (3) this bill is enacted after AB 95, in which case Section 1 of this bill shall not become operative.

CHAPTER 932

An act to amend Section 23104 of, to amend and repeal Section 23105 of, and to repeal Section 23101.5 of, the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 23101.5 of the Education Code is repealed.

SEC. 2. Section 23104 of the Education Code is amended to read:

23104. (a) Deposit in the United States mail of an initial warrant drawn as directed by the member as a refund of contributions upon termination of employment, and addressed to the address directed by the member, constitutes a return of the member's accumulated contributions.

(b) If the member has elected on a form provided by the system to transfer all or a specified portion of the accumulated contributions that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a return of the member's accumulated contributions.

(c) For refunds not involving direct trustee-to-trustee transfers, if the member returns the total gross distribution amount to the system's office within 30 days from the mailing date, the refund shall be canceled and the person shall be restored to membership with all the rights and privileges restored.

(d) For refunds involving direct trustee-to-trustee transfers, if the member returns the warrant drawn to the trustee of the qualified plan and, if applicable, any additional amounts necessary to equal, but in no event to exceed, the total gross distribution amount to the system's office within 30 days from the mailing date, the refund shall be canceled and the person shall be restored to membership with all the rights and privileges restored.

SEC. 3. Section 23105 of the Education Code is amended to read:

23105. The board shall deduct 4 percent of the refundable balance or twenty-five dollars ($25), whichever is less, from each refund made upon termination of service. The amounts deducted are appropriated to the State Teachers' Retirement System and shall be credited to the support appropriation provided for in Section 22304 as reimbursements for the fiscal year during which those amounts are deducted.

This section shall remain in effect only until July 1, 1995, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1995, deletes or extends that date.

CHAPTER 933

An act to amend Sections 22200, 22302, 22305, 22306, 22309, 22310, 22311, 22317, 22319, 22354, 22357, 22360, 22450, 22453, 22454, 22514, 22661, 22715, 22719, 22800, 22803, 22903, 22904, 23104, 23304, 23403, 23702, 23703, 23804, 23805, 23807, 24003, 24101, 24103, 24106, 24107, 24207, 24212, 24301, 24304, 24306, 24307, 24308, 24309, 24404, 24407, 24414, 24604, and 24806 of, to amend and renumber Sections 22137.5, 22401.1, 22401.2, 23013, and 24200.3 of, to amend and repeal Sections 22221, 23800, 23801, 23851, 23854, 23880, 24201, 24204, and 24600 of, to add Section 22115 to, to repeal Sections 22004.2, 22114, 22129, 22143, 22211, 22228, 22252, 22253, 22253.5, 22400, 22401.6, 22401.7, 22452, 22513, 22655, 22662, 23000.1, 23000.5, 23101.5, 23701, 23804.3, 23900, 23903.5, 23911.2, 24152.5, 24155, 24156, 24200.2, 24203, 24205, 24220, 24600.1, 24609, and 24612 of, and to repeal and add Chapter 2 (commencing with Section 22100) of Part 13 of, the Education Code, relating to public retirement systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 22004.2 of the Education Code, as amended by Section 1 of Chapter 1082 of the Statutes of 1993, is repealed.

SEC. 2. Chapter 2 (commencing with Section 22100) of Part 13 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is repealed.

SEC. 3. Chapter 2 (commencing with Section 22100) is added to Part 13 of the Education Code, to read:

CHAPTER 2. DEFINITIONS

22100. Unless the context otherwise requires, the definitions set forth in this chapter govern the construction of this part.

22101. "Accumulated annuity deposit contributions" means the sum of all the annuity deposits standing to the credit of the member's account, together with credited interest.

22102. "Accumulated retirement contributions" means the sum of all member contributions and all member contributions paid by the employer pursuant to Sections 22903 and 22904 with credited interest and does not include accumulated annuity deposit contributions and accumulated tax-sheltered annuity contributions.

22103. "Accumulated tax-sheltered annuity contributions" means the tax-sheltered contributions made by a member and standing to the credit of the member's account, together with credited interest.

22104. "Actuarial equivalent" means an allowance of equal value

when computed upon the basis of such tables and interest rates that are adopted by the board.

22105. "Annuity" means payments for life derived from the "accumulated annuity deposit contributions" of a member.

22106. "Annuity deposit contributions" means additional contributions made by a member above those required for credited service for the purpose of providing additional retirement income.

22107. "Beneficiary" means any person or entity receiving or entitled to receive allowances and payments pursuant to this part because of the death of a member, disabilitant, or retirant.

22108. "Benefits" means any monthly payment due a retirant, disabilitant, or other beneficiary, and includes lump-sum payments due on account of death.

22109. "Board" means the Teachers' Retirement Board.

22110. "California service" means service performed in California for which credit may be given.

22111. (a) "Child" or "children" under the disability allowance and family allowance programs means any of the following:

(1) The unmarried offspring of a member under 18 years of age, not adopted by a person other than the spouse, and dependent upon the member on the effective date of disability allowance or death. Offspring shall include a child who is born within the 10-month period commencing on the effective date of the earlier of disability allowance or death.

(2) The unmarried child, under 18 years of age, adopted by the member, and dependent upon the member on the effective date of disability allowance or death.

(3) The unmarried stepchild of the member, under 18 years of age, and dependent upon the member on the effective date of disability allowance or death.

(4) The dependent unmarried child described in paragraph (1), (2), or (3) who is under 22 years of age and who is registered as a full-time student, as defined in Section 22139, on the effective date of disability allowance or death. A dependent unmarried child who is a full-time student in the month of attaining 22 years of age, shall be deemed not to have attained that age until the first day of the month following the end of the school quarter or semester that was in progress in the month of attainment of 22 years of age.

(b) For those members receiving a disability allowance and who subsequently die, the maximum number of children for family benefits shall be those who were eligible on the effective date of disability allowance.

22112. "Child" or "children," under the disability retirement and survivor benefits programs, means any of the following:

(a) The offspring of a member up to the attainment of 21 years of age, not adopted by a person other than the spouse, and dependent upon the member on the effective date of disability retirement or death. Offspring includes a child who is born within the 10-month period commencing on the effective date of disability retirement or

death.

(b) The child, up to the attainment of 21 years of age, adopted by the member, and dependent upon the member on the effective date of disability retirement or death.

(c) The stepchild of the member, up to the attainment of 21 years of age, and dependent upon the member on the effective date of disability retirement or death.

22113. "Comparable level position" means any job in which the member can earn 66⅔ percent or more of indexed final compensation.

22114. (a) "Compensation" and "salary," for purposes of determining benefits and contributions, mean any of the following:

(1) Remuneration in cash payable by the employer to the member for actual work performed or time served, up to the full-time equivalent for the position.

(2) Any member contributions paid by the employer pursuant to Section 22903 or 22904.

(3) Any amount deducted from the member's salary for participation in a deferred compensation plan, or for purchase of annuity contracts, tax-deferred retirement plans, or other insurance programs, including, but not limited to, plans that meet the requirements of Section 125, 401(k), or 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 125, 401(k), or 403(b)).

(4) Moneys derived from a salary schedule based on years of training and years of experience, as specified in Section 45028.

(5) Any other payments the board may determine to be "compensation" and "salary."

(b) "Compensation" and "salary," for purposes of determining benefits and contributions, do not mean, and shall not include, any of the following:

(1) Money paid, allocated, or reimbursed for job-related expenses.

(2) Money paid to a member for overtime service.

(3) Compensatory damages or money paid to a member in excess of regular salary as a compromise settlement or as severance pay.

(4) Payments for unused accumulated leave.

(5) Money paid for summer school employment.

(6) Money paid as a bonus. For purposes of this part, a bonus is a payment made only to a selected employee or employees and not to the entire class of employees on a systematic basis.

(7) Fringe benefits paid for by the employer in lieu of salary.

(8) Money not available for payment of salaries and that is paid by the employer for the purchase of annuity contracts, tax-deferred retirement plans, or other insurance programs, including, but not limited to, plans that meet the requirements of Section 125, 401(k), or 403(b) of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 125, 401(k), or 403(b)).

(9) Money paid as a stipend to mentor teachers pursuant to subdivision (a) of Section 44494.

(10) Any other payments the board may determine not to be

"compensation" and "salary."

(c) Any moneys paid under paragraphs (1) to (10), inclusive, of subdivision (b) shall not be included as a part of the member's compensation subject to contributions to the system.

(d) The system may establish procedures to ensure that information reported by employers is in compliance with this section.

(e) The Legislature finds and declares that any person who willfully reports compensation in a manner inconsistent with the definitions set forth in this section may be subject to prosecution for fraud, theft, or embezzlement under the Penal Code.

(f) No payment made to a member shall be considered to be creditable for retirement purposes if, in the opinion of the board, the payment was made with the purpose of increasing retirement benefits for the member, unless it is the result of a specific statutory benefit provision and the amount of the present value of the increase has been paid to the system.

(g) This section is designed to treat compensation for retirement purposes of members of the system according to sound funding principles that support the integrity of the fund. Some of the basic funding principles supporting the integrity of the fund include consistent treatment of compensation throughout the career of the individual member and consistent treatment of compensation for an entire classification of employees. Ad hoc adjustments to compensation should not be made when the purpose is to enhance retirement benefits, because those adjustments allow unwarranted and unearned increases in retirement benefits, allow adverse selection, and undermine the fiscal integrity of the fund.

22116. (a) "Compensation earnable," for the purposes of determining final compensation for part-time employees, means the earned salary divided by the service credit.

(b) The compensation earnable shall be limited to the highest salary on the school district salary schedule for a teacher or principal, whichever is applicable, when the service credit for any year is less than one-half of one year's service credit.

(c) The compensation earnable may be determined by the board when the service credit for any year is less than one-fifth of one year's service credit.

22117. "Contribution rate for additional service credit" means the contribution rate adopted by the board to purchase service credit. This rate shall be based upon the most recent valuation of the system and increased to include any subsequently required contribution rates designated for funding subsequent allowance increases.

22118. "County" includes "city and county."

22119. "County superintendent" means the county superintendent of schools.

22120. "Credited interest" is interest that is credited to members' accounts at a rate set annually by the board.

22121. "Credited service" means service for which the required contributions have been paid and shall be used in determining a member's eligibility for any allowance provided by this part.

22122. "Custodian" as used in Section 22359, is any bank or trust company that serves as custodian for safekeeping, delivery, securities valuation, investment performance reporting, and other services in connection with investment of the fund.

22123. (a) "Dependent child" means that more than one-half of the child's support was being provided by the member at the time of the member's disability or death.

(b) The system may require that income tax records and similar substantiating data be submitted by the member or the member's representative. Failure, neglect, or refusal by the member or the member's representative to provide requested tax records or data may constitute grounds for a determination by the system that the child was not dependent at the time of the member's disability or death.

22124. "Dependent parent" means a natural parent of a member, or a parent who adopted the member prior to the earlier of the occurrence of the member's marriage or his or her attaining 18 years of age, and who was receiving one-half of his or her support from the member at the time of the member's death.

22125. "Disabilitant" means a member of the system to whom a disability allowance is payable.

22126. "Disability" or "disabled" means any medically determinable physical or mental impairment that is permanent or that can be expected to last continuously for at least 12 months, measured from the onset of the disability, but no earlier than the day following the last day of on-the-job performance that prevents a member from performing the member's usual duties for the member's employer, the member's usual duties for the member's employer with reasonable modifications, or the duties of a comparable level position for which the member is qualified or can become qualified within a reasonable period of time by education, training, or experience. Any impairment from a willful self-inflicted injury shall not constitute a disability.

22127. "Disability allowance" means monthly amounts payable to a disabilitant.

22128. "Early retirement" and "early retirement age" means age 55 years and is the plan age upon attainment of which the member becomes eligible for a service retirement allowance with reduction because of age and without special qualifications.

22129. "Educational institution" is any accredited public or private institution whose primary purpose is to provide classroom teaching and includes a high school, trade or vocational school or college, community college, or other college or university.

22130. "Effective date" means the date stated in the application upon and continuously after which, should death occur, the member is considered a retirant or disabilitant.

22131. "Employer" or "employing agency" means the state or any agency or political subdivision thereof by whom a member is paid.

22132. "Employment" means employment in a position requiring membership in the system.

22133. "Family allowance" means amounts payable to eligible survivors provided pursuant to Chapter 22 (commencing with Section 23800) after June 30, 1972.

22134. (a) "Final compensation" means the highest average annual compensation earnable by a member during any period of three consecutive years during his or her membership in the system or time during which he or she was not a member but for which the member has received credit under the system, except time that was so credited for service performed outside this state prior to July 1, 1944. The last three consecutive years of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

(b) For the purposes of this section, periods of service separated by breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for the breaks.

(c) The determination of final compensation of a member who is also a member of the Public Employees' Retirement System, the Legislators' Retirement System, the University of California Retirement System, or the San Francisco City and County Employees' Retirement System shall take into consideration the compensation earnable while a member of the other system, provided that all of the following exist:

(1) The member was in state service or in the employment of a local school district or of a county superintendent of schools.

(2) Service under the other system was not performed concurrently with service under this system.

(3) Retirement under this system is concurrent with the member's retirement under the other system.

(d) The compensation earnable for the first position in which California service is credited shall be used when additional compensation earnable is required to accumulate three consecutive years for the purpose of determining final compensation under Section 23804.

(e) The board may specify a different final compensation with respect to allowances based on part-time service performed prior to July 1, 1956, for which credit was given under this system under board rules in effect prior to that date.

(f) The board may specify a different final compensation with respect to disability allowances, disability retirement allowances, family allowances, and the children's increment of the survivor benefit allowances payable on and after January 1, 1978. The earnable salaries for periods of part-time service shall be adjusted by the ratio that part-time service has to full-time service.

(g) The amendment of former Section 22127 made by Chapter 782 of the Statutes of 1982 does not constitute a change in, but is declaratory of, the existing law.

22135. (a) Notwithstanding subdivisions (a) and (b) of Section 22134, "final compensation" means the highest annual compensation earnable by a member who is a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, during any period of 12 consecutive months during his or her membership in the system. The last 12 consecutive months of employment shall be used by the system in determining final compensation unless designated to the contrary in writing by the member.

(b) Section 22134, except subdivision (a) of that section, shall apply to classroom teachers who retire after June 30, 1990, and any statutory reference to Section 22134 or "final compensation" with respect to a classroom teacher who retires, becomes disabled, or dies, after June 30, 1990, shall be deemed to be a reference to this section.

(c) As used in this section, "classroom teacher" means any of the following:

(1) All teachers and substitute teachers in positions requiring certification qualifications who spend, during the last 10 years of their employment with the same employer which immediately precedes their retirement, 60 percent or more of their contract time each year providing direct instruction. For the purpose of determining continuity of employment within the meaning of this subdivision, an authorized leave of absence for sabbatical or illness, or other bargained or employer-approved leaves shall not constitute a break in employment.

(2) Other certificated personnel who spend, during the last 10 years of their employment with the same employer that immediately precedes their retirement, 60 percent or more of their contract time each year providing direct services to pupils, including, but not limited to, librarians, counselors, nurses, speech therapists, resource specialists, audiologists, audiometrists, hygienists, optometrists, psychologists, driver safety instructors, and personnel on special assignment to perform school attendance and adjustment services.

(d) As used in this section, "classroom teacher" does not include any of the following:

(1) Certificated employees whose job descriptions require an administrative credential.

(2) Certificated employees whose job descriptions include responsibility for supervision of certificated staff.

(3) Certificated employees who serve as advisers, coordinators, consultants, or developers or planners of curricula, instructional materials, or programs, who spend, during the last 10 years of their employment with the same employer that immediately precedes their retirement, less than 60 percent of their contract time in direct instruction.

(4) Certificated employees whose job descriptions require provision of direct instruction or services, but who are functioning in

nonteaching assignments.

(5) Classified employees.

(e) This section shall apply only to teachers employed by an employer that has, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, entered into a written agreement with an exclusive representative, that makes this section applicable to all of its classroom teachers, as defined in subdivision (c).

(f) The written agreement shall include a mechanism to pay for all increases in benefits and allowances provided for by this section through employer contributions or employee contributions or both, which shall be collected and retained by the employer in a trust fund to be used solely and exclusively to pay the system for all increases in benefits and allowance provided by this section and related administrative costs, a mechanism for disposition of the employee's contributions if employment is terminated before retirement, and for the establishment of a trust fund board. The trust fund board shall administer the trust fund and shall be composed of an equal number of members representing classroom teachers chosen by the bargaining agent and the employer. If the employer agrees to pay the total cost of the benefit improvement, the establishment of a trust fund and a trust fund board shall be optional to the employer. The employer, within 30 days of receiving an invoice from the system, shall reimburse the system the amount determined by the Teachers' Retirement Board to be equal to the actuarial equivalent of the difference between the allowance the member or beneficiary receives pursuant to this section and the allowance the member or beneficiary would have received if the member's final compensation had been computed under Section 22134 and the proportionate share of the cost to the system, as determined by the Teachers' Retirement Board, of administering this section. The payment shall include the cost of all increases in benefits and allowances provided for by this section for all years of service credited to the member as of the benefit effective date. Interest shall be charged at the regular interest rate for any payment not received within 30 days of the receipt of the invoice. Payments not received within 30 days after receipt of the invoice may be collected pursuant to Section 23007.

(g) Upon the execution of the agreement, the employer shall notify all certificated employees of the agreement and any certificated employee of the employer, who is in the Public Employees' Retirement System pursuant to Section 22509, that he or she may, within 90 days following the date of notification, elect to terminate his or her membership in the Public Employees' Retirement System and become a member of this system. However, only service credited under this system subsequent to the date of that election shall be subject to this section.

(h) An employer that agrees to become subject to this section, shall, on a form and within the timeframes prescribed by the system, certify the eligibility of an employee, upon retirement or eligibility

for a disability or family allowance, pursuant to the criteria set forth in this section.

(i) For a nonmember spouse, final compensation shall be determined pursuant to paragraph (2) of subdivision (c) of Section 22664. The employer, within 30 days of receiving an invoice from the system, shall reimburse the system pursuant to subdivision (f). Interest shall be charged at the regular interest rate for payment not received within the prescribed timeframe. Payments not received within 30 days of invoicing may be collected pursuant to Section 23007.

22136. (a) "Final compensation" with respect to a member whose salary has been reduced because of a reduction in school funds means the highest average annual compensation earnable by the member during any three years during his or her membership in the system if the member elects to be subject to this section.

(b) For the purposes of this section, a year shall be considered to be a period of 12 consecutive months.

22137. With respect to a state employee member who dies or retires on or after July 1, 1991, and who was a managerial or supervisory employee, as defined by subdivisions (e) and (g) of Section 3513 of the Government Code, whose monthly salary range was administratively reduced by 5 percent because of the salary range reductions administratively imposed upon managers and supervisors during the 1991–92 fiscal year, "final compensation" means the highest annual compensation the state employee member would have earned had his or her salary range not been reduced by the 5-percent reduction. This section shall only apply if the period during which the state member's salary was reduced would have otherwise been included in determining his or her final compensation for retirement purposes. The costs, if any, that may result from the use of the higher final compensation shall be paid for by the employer at the time of retirement in a manner prescribed by the system.

22138. "Final vesting" means the right of a member or a beneficiary to receive a monthly retirement allowance, disability allowance, a family benefit, or survivor benefits when the member has completed the minimum number of years of credited service, has attained the minimum specified age, has formally terminated his or her active service, has made application for retirement, or has been formally retired in accordance with Section 24201, after which the kind and amount of the retirement allowance is fixed and cannot thereafter be changed except as provided in this part.

22139. "Full-time student" means a child in full-time attendance at an educational institution. The final determination whether a person qualifies as a full-time student shall be made by the board in light of standards and practices of the institution involved.

22140. "Improvement factor" means an increase of 2 percent in benefits for each year commencing on September 1, following the first anniversary of the effective retirement date, or the date on

which monthly benefits commenced to accrue to any beneficiary other than a retirant or other periods specifically stated in this part. The factor shall not be compounded nor shall it be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions. The Legislature reserves the right to adjust the amount of the improvement factor up or down as economic conditions dictate. No adjustments of the improvement factor shall reduce the monthly retirement allowance or benefit below that which would be payable to the recipient under this part had this section not been enacted.

22141. Notwithstanding Section 22140, "improvement factor" means an increase of 2 percent in benefits provided under Sections 24408 and 24409 for each year commencing on September 1, 1981. The factor shall not be compounded nor shall it be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions. The Legislature reserves the right to adjust the amount of the improvement factor up or down as the economic conditions dictate. No adjustments of the improvement factor shall reduce the monthly retirement allowance or benefit below that which would be payable to the recipient under this part had this section not been enacted.

22142. "Indexed final compensation" means final compensation upon which a disability allowance or disability retirement allowance was based, adjusted annually from the school year in which an allowance begins to accrue by the rate of change in the average compensation earnable as determined by the board.

22143. "Investment manager" and "investment adviser" mean any person, firm, or custodian referred to in Section 22359, either appointed by or under contract with the board to engage in investment transactions or to manage or advise in the management of the assets of the Teachers' Retirement Fund.

22144. "Investment transactions" means investment services of an asset management or investment advisory nature and may include advisory services, research material, trading assistance, trading expenses, discretionary management of funds of the system upon approval by the board, acquisition of equipment to be used as part of the investment function, services that provide a recommended course of action or personal expertise, investment-related legal expenses, investment-related contracting expenses, or custodian services referred to in Section 22359.

22145. "Local system" means any retirement system, exclusive of this system, in which public school teachers are members, operated by a city, county, or other political subdivision of the state.

22146. "Member" means any person included in the membership of the system.

22147. (a) "Month" means 20 days or four weeks of five days each, including legal holidays, with respect to the computation and

crediting of service.

(b) "Month," for all other purposes, means a period commencing on any day of a calendar month and extending through the day preceding the corresponding day of the succeeding calendar month, if there is any such corresponding day, and if not, through the last day of the succeeding calendar month.

22148. "Normal retirement" and "normal retirement age" mean age 60 years and are the plan age upon attainment of which the member becomes eligible for a service retirement allowance without reduction because of age and without special qualifications.

22149. "Option beneficiary" means a person designated to receive an actuarially reduced retirement allowance upon a retirant's or a member's death.

22150. "Other public systems" means any of the following:

(a) Old age, survivors, disability, and health insurance program, other than the lump-sum death payment, provided by the Social Security Act (42 U.S.C.A. Sec. 300 and following).

(b) The federal civil service retirement program.

(c) Federal military disability.

(d) Railroad retirement.

(e) A workers' compensation program.

(f) Federal railroad retirement.

(g) Any other public retirement system, including, but not limited to, any disability programs financed from public funds.

22151. "Overtime" means the aggregate service performed as a member of the system in excess of the hours of work considered normal for employees on a full-time basis.

22152. "Parent" means a natural parent of a member or a parent who adopted the member prior to his or her attainment of 18 years of age or to the member's marriage, whichever occurs earlier.

22153. "Part-time basis with respect to service" means a basis of service that is for less time than is required of persons serving on a full-time-day basis even though the employee may be subject to call at any time.

22154. "Pay period" means a pay period of not less than four weeks or more than one calendar month.

22155. "Payroll" includes registers, warrants, and any other documents upon which all persons receiving salary payments are listed.

22156. "Plan vesting" means the rights of the member upon completion of the minimum number of required years of credited service provided in the retirement plan to entitle the member or his or her beneficiary to a monthly retirement allowance, disability allowance, survivor, family or death benefit at a future date, prior to the completion of which the member upon resignation from service is entitled only to a refund of his or her accumulated contributions as provided in this part.

22157. "Projected final compensation" means the final compensation used in computing the disability or family allowance

increased by 2 percent, compounded annually to the earlier of normal retirement age or the date the disability allowance is terminated.

22158. "Projected service" means the credited service plus the service which would have been earned had the member or disabilitant continued to earn credited service to the earlier of normal retirement age or the date the disability allowance is terminated at the same rate as the highest of any one of the three school years immediately preceding death or the date disability allowance began to accrue.

22159. "Proof of death" means providing to the system any evidence of death required by the system.

22160. "Provisional vesting" means the right of the member upon the completion of the minimum number of years of credited service and attainment of the minimum specified age after which the member may retire at any time and be entitled to receive a monthly retirement allowance.

22161. "Public school" means any day or evening elementary school, and any day and evening secondary schools, community colleges, technical schools, kindergarten schools, and prekindergarten schools established by the Legislature, or by municipal or district authority.

22162. "Regular interest" is interest that is compounded annually based upon the annual equivalent of the average rate yielded on commitments during the prior year for maturities of more than one year in length of fixed-income senior securities. For purposes of this section, "senior securities" means all investments except common stock and preferred stock investments and real estate ownership.

22163. "Reinstatement" means returning to membership from service or disability retirement, whether or not service is subsequently performed.

22164. "Retirant" means a former member who has been retired for service or disability and is receiving a retirement allowance.

22165. "Retirement" means withdrawal from membership with a retirement allowance.

22166. "Retirement allowance" means the monthly amounts payable to a retirant or the option beneficiary.

22167. "Retirement fund" means the Teachers' Retirement Fund.

22168. "Return on investments" means income received or receivable from the system's investments.

22169. "School year" means the fiscal year or the academic year.

22170. "Service" means service performed for compensation in a position requiring membership in the system, except as otherwise specifically provided in this part.

22171. "Spouse" means a person who was married to the member at least 12 months prior to the death of the member unless a child is born to the union within the 12-month period or the surviving spouse is carrying the member's unborn child.

22172. "Survivor allowance" means the allowance provided for in Section 23804 as it read under the law in effect on June 30, 1972.

22173. "Survivor benefit allowance" means the monthly allowance that a surviving spouse may elect to receive pursuant to Chapter 23 (commencing with Section 23850).

22174. "System" means the State Teachers' Retirement System.

SEC. 4. Section 22114 of the Education Code, as amended by Section 1 of Chapter 468 of the Statutes of 1993, is repealed.

SEC. 5. Section 22115 is added to the Education Code, to read:

22115. (a) "Compensation earnable" by a member means the compensation as determined by the board that would have been earned by the member if he or she were engaged in his or her duties on a full-time basis.

(b) For part-time service, "compensation earnable" means the compensation that would be earnable if the employment were on a full-time basis and the member worked full time.

(c) For purposes of this part, "full-time" means service that is not less than the minimum schoolday for each day the schools of the district are maintained during the school year. If persons employed in positions requiring certification qualifications are required to serve a longer period of time in each schoolday than the minimum required, the longer period is recognized provided all those employees in similar grades or levels are similarly required to serve the longer periods of time, and provided that the duties required of those persons during the extended time is directly related to and restricted to their normal assignment.

SEC. 5.5. Section 22115 is added to the Education Code, to read:

22115. (a) "Compensation earnable" by a member means the compensation as determined by the board that would have been earned by the member if he or she were engaged in his or her duties on a full-time basis.

(b) For part-time service, "compensation earnable" means the compensation that would be earnable if the employment were on a full-time basis and the member worked full time.

SEC. 6. Section 22129 of the Education Code, as amended by Section 1 of Chapter 860 of the Statutes of 1993, is repealed.

SEC. 6.5. Section 22137.5 of the Education Code, as added by Chapter 193 of the Statutes of 1994, is amended and renumbered to read:

22138.5. "Full-time" means service that is not less than the minimum schoolday for each day the schools of the district are maintained during the school year. If persons employed in positions requiring certification qualifications are required to serve a longer period of time in each schoolday than the minimums required, the longer period is recognized provided all those employees in similar grades or levels are similarly required to serve the longer periods of time, and provided that the duties required of those persons during the extended time is directly related to and restricted to their normal assignment.

SEC. 7. Section 22143 of the Education Code, as amended by Section 1 of Chapter 920 of the Statutes of 1993, is repealed.

SEC. 7.5. Section 22200 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22200. (a) The system is managed by the Teachers' Retirement Board. The members of the board are as follows:

(1) The Superintendent of Public Instruction.

(2) The Controller.

(3) The Treasurer.

(4) The Director of Finance.

(5) One member who, at the time of appointment, is a member of the governing board of a school district or a community college district.

(6) Three members of the State Teachers' Retirement System, as follows:

(A) Two members who, at the time of appointment, are classroom teachers in kindergarten or grades 1 through 12.

(B) One member who, at time of appointment, is a community college instructor with expertise in the areas of business or economics or both business and economics and who shall be appointed by the Governor for a term of four years from a list submitted by the Board of Governors of the California Community Colleges.

(7) A retirant of the system.

(8) One officer of a life insurance company appointed by the Governor for a term of four years, subject to confirmation by the Senate.

(9) One officer of a bank or a savings and loan institution who has had at least five years of broad professional investment experience handling various asset classes such as stocks, bonds, and mortgage investments and who shall be appointed by the Governor for a term of four years, subject to confirmation by the Senate.

(10) One member representing the public, appointed by the Governor for a term of four years, subject to confirmation by the Senate.

(b) The members of the board described in paragraphs (5) and (7) and subparagraph (A) of paragraph (6) of subdivision (a) shall be appointed by the Governor for four-year terms from a list submitted by the Superintendent of Public Instruction.

(c) The members of the board shall annually elect a chairperson and vice chairperson.

SEC. 8. Section 22211 of the Education Code is repealed.

SEC. 9. Section 22221 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22221. The board shall adopt, upon the recommendation of the actuary of the system, any mortality and other tables and interest rates necessary to do either of the following:

(a) Permit valuation of the assets and liabilities of the system.

(b) Make any determination or calculation necessary to carry out

this part.

SEC. 10. Section 22221 of the Education Code, as amended by Section 2 of Chapter 920 of the Statutes of 1993, is repealed.

SEC. 11. Section 22228 of the Education Code, as amended by Section 2 of Chapter 861 of the Statutes of 1993, is repealed.

SEC. 12. Section 22252 of the Education Code, as amended by Section 1 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 13. Section 22253 of the Education Code, as amended by Section 72 of Chapter 219 of the Statutes of 1993, is repealed.

SEC. 14. Section 22253.5 of the Education Code, as amended by Section 73 of Chapter 219 of the Statutes of 1993, is repealed.

SEC. 15. Section 22302 of the Education Code is amended to read:

22302. (a) The board shall establish an ombudsman position to serve as an advocate for the members of the system. The duties of the ombudsman position shall include reviewing and making recommendations to the chief executive officer regarding complaints by school employees, members, retirants, employee organizations, Members of the Legislature, or members of the public regarding actions of the staff of the system.

(b) It is the intent of the Legislature that the salary of the position of ombudsman be offset, as much as possible, through savings realized in reduction in interest payments on delinquent benefits to members, and through a more efficient and improved public relations program.

SEC. 16. Section 22305 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22305. Any rules and regulations adopted by the board for the purpose of the administration of this part, and not inconsistent with this part, have the force and effect of law.

SEC. 17. Section 22306 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22306. (a) Data filed by any member, retirant, or beneficiary with the board is confidential. No official or employee who has access to the individual records shall divulge any information concerning those records to any person other than the member or retirant to whom the information relates or that person's authorized representative, the governing board of the school district or agency by which the member or retirant is employed, or any state department or agency, except as necessary to locate a person to whom a benefit or refund may be payable. The information shall be used by the board for the sole purpose of carrying this part into effect.

(b) The information is not open to inspection by anyone except the board and its officers and employees, and any person authorized by the Legislature to make inspections.

(c) Information filed with the board in a beneficiary designation form may be released, after the death of the member or retirant, to those persons who can provide information necessary for the distribution of benefits.

SEC. 18. Section 22309 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22309. (a) The board shall issue to each member, after the close of the school year, a statement of his or her individual account, provided the employer or member has informed the system of the member's current mailing address.

(b) (1) The board shall periodically make a good faith effort to locate inactive members to provide these members with information concerning any benefit for which they may be eligible.

(2) For purposes of this subdivision, "inactive member" means a member who, by the report period ending June 30 of a school year, has performed no service during that school year.

SEC. 19. Section 22310 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22310. (a) If a benefit or refund of contributions cannot be paid because, after a good faith effort, the member or beneficiary cannot be located, the amounts payable shall be retained in the Teachers' Retirement Fund until the time the party entitled to payment is located.

(b) Interest shall continue to accrue on the accumulated contributions pursuant to this part.

SEC. 20. Section 22311 of the Education Code is amended to read:

22311. (a) The board shall keep in convenient form any data necessary for the actuarial valuation of the system.

(b) The board shall make an actuarial investigation into the mortality, service, and other experience of members and beneficiaries and make an actuarial valuation of the assets and liabilities of the system, at least once every six years. The actuary shall perform the actuarial valuation using actuarial assumptions adopted by the board and that are, in the aggregate, reasonably related to the past experience of the system and the best estimate by the actuary of the future experience of the system. The report of the actuary of the results of the actuarial valuation shall identify and include the components of normal cost and adequate information to determine the effects of changes in actuarial assumptions. Copies of the report on the actuarial valuation shall be transmitted to the Governor and to the Legislature. Upon the basis of any or all of the actuarial investigation and valuation, the board shall adopt for the system any rates of return on investments, rates of contribution to the retirement fund, mortality, service, and other tables it deems necessary.

SEC. 21. Section 22317 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22317. (a) With respect to members with membership effective dates of December 31, 1989, and earlier, benefit enhancements due to a plan amendment enacted after October 14, 1987, are subject to the limitations imposed by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 415).

(b) With respect to members with membership effective dates of

January 1, 1990, and later, retirement benefits, including enhancements due to a plan amendment, are subject to the limitations imposed by Section 415 of the Internal Revenue Code of 1986.

(c) With respect to members or retirants described in subdivision (a) or (b), or beneficiaries of those persons, a change in the benefit structure of the plan pursuant to a plan amendment shall not be subject to Section 415(b)(5)(D) of the Internal Revenue Code of 1986 in the case of all plan amendments enacted before, on, or after August 3, 1992.

SEC. 22. Section 22319 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22319. (a) The initial payment to a retirant shall be issued within 45 days of either the effective date of retirement or receipt by the system of a completed application for retirement, whichever is later. The initial payment to an option beneficiary shall be issued within 45 days following receipt by the system of a completed application for death benefits and proof of death of the member or retirant. Monthly payments shall continue thereafter. Payments may be based on a good faith estimated amount pending receipt by the system of all necessary employment information.

(b) The retirant or option beneficiary shall be placed on the final roll and issued a retroactive payment, if one is due, within 45 days of receipt by the system of all necessary information.

SEC. 23. Section 22354 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22354. (a) The board shall, pursuant to the state civil service statutes, either contract with, or establish and fill full-time positions for, investment managers who are experienced and knowledgeable in corporate management issues to monitor each corporation any of whose shares are owned by the system and to advise the board on the voting of the shares owned by the system and on the responses of the system to merger proposals and tender offers and all other matters pertaining to corporate governance.

(b) Notwithstanding Section 13340 of the Government Code, there is hereby continuously appropriated, without regard to fiscal years, from the retirement fund, an amount sufficient to pay all costs arising from this section.

SEC. 24. Section 22357 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22357. The board shall submit an annual report to the Legislature, which shall include all of the following:

(a) A copy of the annual audit performed pursuant to Section 22217.

(b) A review by a consultant, a summary of any changes in actuarial assumptions from the previous year, a review of the system's asset mix strategy, a market review of the economic and financial environment in which investments were made, and a summary of the system's general investment strategy.

(c) A description of the investments of the system, including the concentration of stocks and bonds, at cost and market value, including dividends and coupons, and a summary of major changes that occurred since the previous year.

(d) The following information regarding the rate of return of the system by asset type:

(1) Time-weighted return on a five-year, three-year, two-year, and one-year basis.

(2) Dollar-weighted return on a five-year, three-year, two-year, and one-year basis.

(3) Book valuation return on a five-year, three-year, two-year, and one-year basis.

(4) Portfolio return comparisons that compare investment returns with an alternative theoretical portfolio of comparable funds, universes, and indexes.

(5) Returns as credited to employer accounts.

(6) Returns as reported in annual reports.

(7) Returns as reported by the Controller.

(e) A transaction summary that shall adequately review the system's custodial relationship and daily cash management, purchases, sales, turnover, private placements, soft dollar purchases, and transaction costs such as commissions, dealer spreads, and accommodations.

(f) A report on the use of outside investment advisers and managers and any participation in corporate annual meetings and shareholder voting.

(g) A statement of actuarial gains and losses, including the components of the employer contribution rate, and the sensitivity of the statement information to changes in the economic or noneconomic actuarial assumptions.

(h) A discussion of the portfolio of the system containing the following information:

(1) Concentration, current holdings at cost and market value, risk characteristics (R-squared, Beta, standard error), fundamentals (P/E, dividend yield, measures of growth, size, earnings quality, debt/equity) of equities.

(2) Concentration, current holdings at cost and market value, maturity, duration, quality, coupon, and current yield of fixed income instruments.

(3) Current holdings at cost and market value of real estate equities.

(4) Current holdings at cost and market value of mortgages.

(5) Securities lending activity.

(6) Options and forward commitments.

(7) Cash and cash equivalents.

(i) A performance review of asset allocation, of equities due to market timing, sector selection, stock selection, and trading, of fixed income instruments due to interest rate anticipation skills, credit analysis, sector trading and swapping, and of value added over

indexing (alpha).

(j) A review of the system's custodial relationship and daily cash management and a summary of the system's investment transactions, including purchases, sales, turnover, private placements, soft dollar purchases, and transaction costs such as commissions, dealer spreads, and accommodations.

(k) A review of the role of any outside managers and advisers, stockholder voting, and changes in investment staff or reorganization.

SEC. 25. Section 22360 of the Education Code is amended to read:

22360. (a) Notwithstanding any other provision of law, the board may, pursuant to Section 22203 and in conformance with its fiduciary duty as set forth in Section 22250, enter into correspondent agreements with private institutions in this state to utilize the retirement fund to assist system members and retirants, through financing, to obtain homes in this state.

(b) The terms and conditions of the correspondent agreements shall address all of the following:

(1) That home loans be made available to eligible members and retirants for the purchase of single-family dwellings, two-family dwellings, three-family dwellings, four-family dwellings, single-family cooperative apartments, and single-family condominiums.

(2) That the private lending institution shall originate and service these home loans.

(3) That the recipients of the loans occupy the homes as their permanent residences pursuant to rules and regulations adopted by the board or as these terms are defined in the correspondent agreements.

(4) That home loans shall be available only for the purchase of homes in this state.

(5) That the amount and length of the loans shall include terms and conditions that set a loan to value ratio of: (A) for the first loan, except for three-family dwellings and four-family dwellings, a maximum of 95 percent of the first loan; (B) for the first loan on three-family dwellings and four-family dwellings, a maximum of 90 percent of the first loan; and (C) for each additional loan, a maximum of 80 percent of each additional loan. The portion of any loan exceeding 80 percent of value shall be insured by an admitted mortgage guaranty insurer conforming to Chapter 2A (commencing with Section 12640.01) of Part 6 of Division 2 of the Insurance Code in an amount so that the unguaranteed portion of the loan does not exceed 75 percent of the market value of the property together with improvements thereon.

(6) That there may be prepayment penalties assessed on loans, the terms and conditions of which shall be set forth in the correspondent agreement.

(7) That the criteria and terms for loans shall provide the greatest benefit to eligible members, and retirants consistent with the

financial integrity of the program and the sound investment of the retirement fund.

(8) That loans shall not be made at a rate lower than the market rate.

(9) Any other terms and conditions as the parties to the correspondent agreement may deem appropriate.

(c) This section shall be known and may be cited as the Dave Elder State Teachers' Retirement System Member Home Loan Program Act.

SEC. 26. Section 22400 of the Education Code, as amended by Section 3 of Chapter 861 of the Statutes of 1993, is repealed.

SEC. 27. Section 22401.1 of the Education Code, as added by Section 3 of Chapter 920 of the Statutes of 1993, is amended and renumbered to read:

22451.5. (a) Upon request by the system, a member shall provide proof of his or her date of birth to resolve any discrepancy between the member's date of birth as originally documented on the records of the system and the member's birthdate as subsequently submitted.

(b) A member shall provide proof of the date of birth of a person designated by the member as beneficiary under an option selected pursuant to Chapter 28 (commencing with Section 24300) if the beneficiary is not also a member of the system.

(c) Documentation substantiating the birthdate of a member's child shall be provided if a disability allowance, a disability retirement allowance, a family allowance, or a survivor benefit allowance payable under this part will include an amount for that child.

(d) At the time application is made for payment of a family allowance or survivor benefit allowance to a surviving spouse or dependent parent, a member's surviving spouse or dependent parent shall provide proof of his or her date of birth.

(e) At the discretion of the board, an original document, a certified copy of the original, or a photocopy shall be acceptable to establish proof of the date of birth.

SEC. 28. Section 22401.2 of the Education Code, as added by Section 4 of Chapter 920 of the Statutes of 1993, is amended and renumbered to read:

22451.7. The system may withhold benefit payments until proof of the date of birth of a member, beneficiary under an option selected pursuant to Chapter 28 (commencing with Section 24300), child, surviving spouse, or dependent parent has been received and accepted by the system.

SEC. 29. Section 22401.6 of the Education Code, as amended by Section 74 of Chapter 219 of the Statutes of 1993, is repealed.

SEC. 30. Section 22401.7 of the Education Code, as amended by Section 75 of Chapter 219 of the Statutes of 1993, is repealed.

SEC. 31. Section 22450 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22450. (a) Each member and beneficiary shall furnish to the board any information affecting his or her status as a member or beneficiary of the system the board requires.

(b) A member who has not had any service reported during the prior school year shall provide the system with his or her current mailing address and beneficiary information.

SEC. 32. Section 22452 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is repealed.

SEC. 33. Section 22453 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22453. (a) Except as provided in Section 22454, the signature of the spouse of a member or retirant shall be required on any application for, or cancellation of, an unmodified allowance, the election or cancellation of an option, request for a refund of the member's accumulated retirement contributions or accumulated annuity deposit contributions, or other requests related to the selection of benefits by a member or retirant in which a spousal interest may be present, unless the member or retirant declares, in writing, under penalty of perjury, that one of the following conditions exists:

(1) The member or retirant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse.

(2) The spouse is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(3) The member or retirant and spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family Code that makes the community property law inapplicable to the marriage.

(4) The member or retirant is not married.

(5) The current spouse has no identifiable community property interest in the benefit.

(b) This section is not applicable to an application for a disability allowance.

(c) The sole purpose of this section is to provide for spousal protection in the selection of specified benefits made by a member or retirant.

SEC. 34. Section 22454 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22454. If a spouse refuses to sign an application, as set forth in Section 22453, the member or retirant may bring an action in court to enforce the spousal signature requirement or to waive the spousal signature requirement. Either party may bring an action pursuant to Section 1101 of the Family Code to determine the rights of the party.

SEC. 35. Section 22513 of the Education Code, as amended by Section 2 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 36. Section 22514 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22514. Persons who have not achieved plan vesting shall qualify for eligibility for benefits under this system when total service under

both systems equals the minimum required under Sections 23801 and 23804. These persons shall retain vested rights to survivor and disability benefits until they qualify for the similar benefits in the Public Employees' Retirement System.

SEC. 37. Section 22655 of the Education Code, as amended by Section 2 of Chapter 1082 of the Statutes of 1993, is repealed.

SEC. 38. Section 22661 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22661. The nonmember spouse who is awarded a separate account shall have the right to a refund of accumulated retirement contributions in the separate account of the nonmember.

(a) The right of the nonmember spouse to a refund of accumulated retirement contributions is subject to Section 23105.

(b) The nonmember spouse shall file an application on a form provided by the system to obtain the refund.

(c) The refund is effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember spouse and addressed to the latest address for the nonmember spouse on file in the system. If the nonmember spouse has elected on a form provided by the system to transfer all or a specified portion of the accumulated contributions that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a return of the nonmember spouse's accumulated contributions.

(d) The nonmember spouse is deemed to have permanently waived all rights and benefits pertaining to the service credit and represented by the accumulated retirement contributions when the refund becomes effective.

(e) The nonmember spouse may not cancel a refund after the refund is effective.

(f) The nonmember spouse shall have no right to elect to redeposit the refunded accumulated retirement contributions after the refund is effective and shall have no right to redeposit under Section 22662 or purchase additional service credit under Section 22663 after the refund becomes effective.

(g) If the total service credit in the separate account of the nonmember spouse, including service credit purchased under Sections 22662 and 22663, is less than two and one-half years, the board shall refund the balance of the account.

SEC. 39. Section 22662 of the Education Code, as amended by Section 3 of Chapter 1082 of the Statutes of 1993, is repealed.

SEC. 40. Section 22715 of the Education Code is amended to read:

22715. (a) Notwithstanding any other provisions of this part, whenever the Governor, by executive order, determines that because of an impending curtailment of, or change in the manner of performing service, the best interest of the state would be served by encouraging the retirement of state employees, and that sufficient

economies could be realized to offset any cost to state agencies resulting from this section, an additional two years of service shall be credited to members, who are state employees, if the following conditions exist:

(1) The member is credited with five or more years of service and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the date of issuance of the Governor's executive order specifying that period.

(2) The appointing power, as defined in Section 18524 of the Government Code, transmits to the retirement fund an amount determined by the board that is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without the service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(3) The appointing power determines that it is electing to exercise the provisions of this section, pursuant to the Governor's order, and certifies to the Department of Finance and to the Legislative Analyst, as to the specific economies that will be realized were the additional service credit towards retirement granted.

(b) As used in this section, "member" means a state employee who is employed in a job classification, department, or other organizational unit designated by the appointing power, as defined in Section 18524 of the Government Code.

(c) The amount of service credit shall be two years regardless of credited service, but shall not exceed the number of years intervening between the date of the member's retirement and the date the member would be required to be retired because of age. The appointing power shall make the payment with respect to all eligible employees who retired pursuant to this section.

(d) Any member who qualifies under this section, upon subsequent reinstatement, shall forfeit the service credit acquired under this section.

(e) This section shall not be applicable to any member otherwise eligible if that member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the date of issuance of the executive order or if the member is not eligible to retire without the additional credit available under this section.

(f) The benefit provided by this section shall not be applicable to the employees of any appointing power until the Director of Finance approves the transmittal of funds by that appointing power or the Board of Regents or the Board of Trustees to the retirement fund pursuant to paragraph (2) of subdivision (a).

(g) The Director of Finance shall approve the transmittal of funds by the appointing power not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house that considers appropriations and the

chairperson of the Joint Legislative Budget Committee, or not sooner than any lesser time that the chairperson of the committee, or his or her designee, may in each instance determine. If there is any written communication between the Director of Finance and the Legislative Analyst, a copy of the communication shall be transmitted to the chairperson of each appropriate policy committee.

SEC. 41. Section 22719 of the Education Code is amended to read:

22719. If a retirant is reinstated, the employing school district or other employing agency shall not restore sick leave for which service credit was given at retirement. A retirant who reinstates on or after July 1, 1980, shall not receive service credit at a subsequent retirement for the unused sick leave accrued after reinstatement.

SEC. 42. Section 22800 of the Education Code is amended to read:

22800. (a) Claims for permissive and additional service credit shall be corroborated by a statement from the superintendent of schools or custodian of records of the employing agency or public school where the service was performed.

(b) Claims for creditable service performed outside the United States or in federal schools within the United States shall be corroborated by a statement from the custodian of records.

(c) When the official records of the service have been destroyed, the claim may be corroborated by one or more affidavits of knowledge of the service, preferably by persons who served with the member at the time the service was performed.

SEC. 43. Section 22803 of the Education Code is amended to read:

22803. (a) A member may elect to receive credit for any of the following:

(1) Service performed in a teaching position in a publicly supported and administered university or college in this state.

(2) Service performed in a certificated teaching position in a child care center operated by a county superintendent of schools or a school district in this state.

(3) Service performed in a teaching position in the California School for the Deaf or the California School for the Blind, or in special classes maintained by the public schools of this state for the instruction of the deaf, the hard of hearing, the blind, or the semisighted.

(4) Service performed in a certificated teaching position in a federally supported and administered Indian school in this state.

(5) Time served, not to exceed two years, in a certificated teaching position in a job corps center administered by the United States government in this state if the member was employed in a position requiring membership in this system within one year prior to entering the service and returned to a position requiring membership in this system within six months following the date of termination of service in the job corps.

(6) Time spent on a sabbatical leave after July 1, 1956.

(7) Time spent on an approved leave to participate in any

program under the federal Mutual Educational and Cultural Exchange Program.

(8) Time spent on an approved maternity or paternity leave of two years or less in duration, regardless of whether or not the leave was taken before or after the addition of this subdivision.

(9) Time spent on an approved leave, up to four months in any 12-month period, for family care or medical leave purposes, as defined by Section 12945.2 of the Government Code, as it read on the date leave was granted, excluding maternity and paternity leave.

(b) In no event shall the member receive credit for service or time described in paragraphs (1) to (9), inclusive, of subdivision (a) if the member has received or is eligible to receive credit for the same service or time in another retirement system.

SEC. 44. Section 22903 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22903. Notwithstanding Sections 22901, 22956, and 23000, each school district, community college district, county board of education, and county superintendent of schools, may pick up, for the sole purpose of deferring taxes, as authorized by Section 414(h)(2) of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, all of the employee's contributions towards retirement made by members of the State Teachers' Retirement System, provided that the contributions are deducted from the salary of the member.

SEC. 45. Section 22904 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

22904. Notwithstanding any other provision of law, the state may pick up all or a portion of the normal contributions required to be paid by a state employee who is a member of the State Teachers' Retirement System, provided that the contributions are deducted from the salary of the member. The pick up of member contributions shall be through a salary reduction program pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 414(h)(2)). These contributions shall be reported as employer-paid member contributions, and shall be credited to member accounts.

SEC. 46. Section 23000.1 of the Education Code, as amended by Section 4 of Chapter 1082 of the Statutes of 1993, is repealed.

SEC. 47. Section 23000.5 of the Education Code, as amended by Section 5 of Chapter 1082 of the Statutes of 1993, is repealed.

SEC. 48. Section 23013 of the Education Code, as added by Section 2 of Chapter 860 of the Statutes of 1993, is amended and renumbered to read:

23004.5. (a) In order for an employer to manage its budget during a time of fiscal emergency and, during that time, to preserve benefits for employees who are employed in positions subject to membership in this system and whose salaries, as defined in Section 22114, have been reduced because of the fiscal emergency, the employer may report to the system the earnable and earned salaries that would have been reported to the board had the fiscal emergency

not occurred, provided that the employer complies with the specific reporting requirements in this section or as otherwise required by the board.

(b) This section shall not apply to any school district, community college district, or county office of education until the appropriate governing body adopts a resolution, in a form provided by the board, to elect to be covered by this section. The resolution shall be filed with, and approved by, the board prior to the submission of the reports required by this section. The resolution shall specify the percentage reduction in earnable salaries, identify the bargaining unit, or the group or class of unrepresented employees, or both, to be covered by this section, as defined, and specify the period of time during which the resolution is to be in effect.

(c) An employer may resolve to be covered by this section for all employees of a bargaining unit who are employed in positions subject to membership in this system and have had their salaries uniformly reduced because of a fiscal emergency. If the employer adopts a resolution to be covered by this section for all employees in a bargaining unit, the employer may also adopt a resolution to be covered by this section for any group or class of nonrepresented employees who are employed in positions subject to membership in this system and have had their salaries uniformly reduced because of a fiscal emergency. A separate resolution shall be adopted for each bargaining unit and group or class of nonrepresented employees whose earnable and earned salaries will be reported under this section.

(d) The employer shall transmit to the retirement fund the administrative costs incurred by the system in implementing this section, as determined by the Teachers' Retirement Board.

(e) If the board determines that any conditions or requirements of a submitted resolution have not been fulfilled, the resolution shall immediately become inoperative. In that case, a new resolution may be adopted and submitted pursuant to this section.

(f) The earnable salaries prior to the salary reduction and the earned salaries based on the earnable salaries prior to the salary reduction shall be uniformly reported for all employees covered by a resolution.

(g) Member and employer contributions shall be reported and remitted to the system based on salaries reported as earned under this section and not on actual earned salaries after reduction.

(h) Employer reports shall be submitted in a manner prescribed by the system to reflect identification of each individual whose earned salaries are reported under this section.

(i) An employer that elects to be covered by this section shall maintain and provide to the system, as requested, copies of payroll records, contracts, and other related documentation regarding both the reduced and reported earnable and earned salaries on all individuals who are reported under this section. The system may perform periodic audits of each employer that elects to be covered

by this section.

(j) The reported earnable and earned salaries of an employee who has taken a demotion in lieu of layoff, or has transferred to a part-time position, or has been subject to any other personnel action for which a reduction in salary occurs for reasons other than the fiscal emergency shall be based on the salary of the new position, not on the higher salary of the previous position.

(k) As used in this section, "group or class of nonrepresented employees" means a number of employees considered together because they share job similarities, work location, or other logical work-related grouping. Under no circumstances shall one employee be considered a group or class.

(*l*) It is the intent of the Legislature that this section shall not be used for the purpose of inflating the compensation of any employee who is employed in a position subject to membership in this system, nor to artificially provide a salary increase that is not actually paid, nor to engage in any other form of pension abuse.

(m) This section shall remain in effect only until July 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1996, deletes or extends that date.

SEC. 49. Section 23101.5 of the Education Code, as amended by Section 6 of Chapter 1082 of the Statutes of 1993, is repealed.

SEC. 50. Section 23104 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

23104. (a) Deposit in the United States mail of an initial warrant drawn as directed by the member as a refund of contributions upon termination of employment, and addressed to the address directed by the member, constitutes a return of the member's accumulated contributions.

(b) If the member has elected on a form provided by the system to transfer all or a specified portion of the accumulated contributions that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a return of the member's accumulated contributions.

(c) For refunds not involving direct trustee-to-trustee transfers, if the member returns the total gross distribution amount to the system's office within 30 days from the mailing date, the refund shall be canceled and the person shall be restored to membership with all the rights and privileges restored.

SEC. 50.5. Section 23104 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

23104. (a) Deposit in the United States mail of an initial warrant drawn as directed by the member as a refund of contributions upon termination of employment, and addressed to the address directed by the member, constitutes a return of the member's accumulated contributions.

(b) If the member has elected on a form provided by the system

to transfer all or a specified portion of the accumulated contributions that are eligible for direct trustee-to-trustee transfer to the trustee of a qualified plan under Section 402 of the Internal Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in the United States mail of a notice that the requested transfer has been made constitutes a return of the member's accumulated contributions.

(c) For refunds not involving direct trustee-to-trustee transfers, if the member returns the total gross distribution amount to the system's office within 30 days from the mailing date, the refund shall be canceled and the person shall be restored to membership with all the rights and privileges restored.

(d) For refunds involving direct trustee-to-trustee transfers, if the member returns the warrant drawn to the trustee of the qualified plan and, if applicable, any additional amounts necessary to equal, but in no event to exceed, the total gross distribution amount to the system's office within 30 days from the mailing date, the refund shall be canceled and the person shall be restored to membership with all the rights and privileges restored.

SEC. 51. Section 23304 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

23304. If no beneficiary designation is in effect on the date of death, any benefit payable shall be paid to the estate of the member or retirant. Payment pursuant to the board's determination in good faith upon evidence satisfactory to it of the existence, identity or other facts relating to entitlement of persons under this section shall constitute a complete discharge and release of the system from liability for the benefit.

SEC. 52. Section 23403 of the Education Code is amended to read:

23403. Survivor benefits payable on account of deaths that occurred prior to July 1, 1972, shall be continued in the amounts and under the conditions stated in former Sections 14186 and 14189, as they read prior to July 1, 1972.

SEC. 53. Section 23701 of the Education Code, as amended by Section 6 of Chapter 920 of the Statutes of 1993, is repealed.

SEC. 54. Section 23702 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

23702. (a) All members of the State Teachers' Retirement System on October 15, 1992, who are not receiving a disability allowance or a retirement allowance with an effective date prior to October 16, 1992, shall be eligible to make an irrevocable election, pursuant to this chapter, to retain coverage under either the disability allowance and family allowance programs or to have coverage under the disability retirement and survivor benefits programs.

(b) The member's eligibility to participate in the election shall be based on the member's status with the system on October 15, 1992, only, and not on prior or subsequent events.

SEC. 55. Section 23703 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

23703. A member's election of disability or death benefit coverage shall meet all of the following requirements:

(a) The member is eligible to participate in the election pursuant to Section 23702.

(b) The election is filed on a form provided by the system.

(c) Except as provided in Section 23704, the election document contains the signature of the spouse of the member, unless the member declares, in writing, under penalty of perjury, that one of the following conditions exists:

(1) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse.

(2) The spouse is incapable of executing the acknowledgment because of an incapacitating mental or physical condition.

(3) The member and spouse have executed a marriage settlement agreement pursuant to Part 5 (commencing with Section 1500) of Division 4 of the Family Code that makes the community property law inapplicable to the marriage.

(4) The member is not married.

(5) The current spouse has no identifiable community property interest in future benefits.

(d) The election document is signed and dated during the 180-day election period specified in Section 23701.

(e) The signatures of the member and the member's spouse on the election document are witnessed by a third party who is at least 18 years of age.

(f) The election document is received in the system's office in Sacramento within 30 days after the date of signature, but no later than May 1, 1993.

SEC. 56. Section 23800 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

23800. (a) This chapter governs the eligibility, benefit provisions, allowance computations, and related provisions for the death benefits payable upon the death of eligible members. "Members," as used in this chapter, means all members who were disabilitants on October 15, 1992, and all persons who were members of the system on October 15, 1992, who did not elect, pursuant to Chapter 21.5 (commencing with Section 23700), to be covered under Chapter 19.5 (commencing with Section 23850).

(b) This chapter also contains three sections related to survivor benefits payable on account of deaths that occurred prior to July 1, 1972.

SEC. 57. Section 23800 of the Education Code, as amended by Section 3 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 58. Section 23801 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

23801. (a) A death payment of five thousand dollars ($5,000) shall be paid to the beneficiary upon receipt of proof of death of a member who had one or more years of credited service, at least one of which had been performed subsequent to the most recent refund

of accumulated retirement contributions, if the member died during any one of the following periods:

(1) While in employment for which compensation is paid.

(2) While disabled, if the disability had been continuous from the last day for which compensation had been paid.

(3) Within four months after termination of service or termination of employment, whichever occurs first.

(4) Within four months after termination of a disability allowance if no service was performed after the termination.

(5) Within 12 months of the last day for which compensation was paid, if the member was on an approved leave of absence without compensation for reasons other than disability or military service.

(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing with the effective date of reinstatement from service retirement pursuant to Section 24208.

(c) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index.

(d) A beneficiary may waive his or her right to the death payment in accordance with the requirements established by the system.

SEC. 59. Section 23801 of the Education Code, as amended by Section 3.5 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 60. Section 23804 of the Education Code is amended to read:

23804. (a) A family allowance is payable upon the death of a member or a disabilitant who was receiving a disability allowance that began to accrue after June 30, 1972.

(b) (1) For the family allowance to be payable upon the death of a member, all of the following conditions shall be met at the time of death:

(A) Death occurred after June 30, 1972.

(B) A preretirement election of an option is not in effect.

(C) The provisions for the death payment under this part have been met.

(2) In addition to the conditions specified in paragraph (1), at least one-half year of credited service had been performed subsequent to the end of the last break, if a break in service of more than one year had occurred.

(3) In addition to the conditions specified in paragraph (1), at least one year of credited service had been performed subsequent to the last reinstatement date, if reinstated from service or disability retirement.

(c) The family allowance is in lieu of the return of the member's accumulated retirement contributions.

(d) The family allowance may be terminated, if all eligible beneficiaries formally waive their rights in accordance with the requirements established by the system.

SEC. 61. Section 23804.3 of the Education Code, as amended by Section 4 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 62. Section 23805 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

23805. A family allowance is payable in the amount and to the specified persons in the following order of priority:

(a) To the member's or disabilitant's surviving spouse who has financial responsibility for at least one child, an amount equal to 40 percent of the deceased member's final compensation or the disabilitant's projected final compensation plus 10 percent of the deceased member's final compensation or the disabilitant's projected final compensation for each child, up to a maximum allowance of 90 percent.

(b) If there is no surviving spouse or upon the death of the surviving spouse, to each child, an amount equal to 10 percent of the deceased member's final compensation or the disabilitant's projected final compensation, up to a maximum allowance of 50 percent. If there are more than five children, they shall share equally in the maximum allowance of 50 percent.

(c) To the surviving spouse at 60 years of age or over without children, an amount equal to Option 3 as provided under this part computed on the member's or disabilitant's projected final compensation and projected service to normal retirement age. The allowance payable under this subdivision shall be increased by application of the benefit improvement factor for time that elapses between the date the member or disabilitant would have attained normal retirement age and the date the family allowance under this subdivision begins to accrue. The benefit calculation shall include credit for the unused sick leave that had accrued to the member as of the date of the member's death. Eligibility for the use of sick leave and the calculation of service credit shall be determined pursuant to Section 22717.

(d) If there is no surviving spouse or child upon the member's or disabilitant's death, to the dependent parent age 60 years or over, an amount equal to Option 3 as provided under this part computed on the member's or disabilitant's projected final compensation and projected service to normal retirement age. The benefit calculation shall include credit for the unused sick leave that had accrued to the member as of the date of the member's death. Eligibility for the use of sick leave and the calculation of service credit shall be determined pursuant to Section 22717. If there are two dependent parents, only one family allowance shall be computed on the assumption that the younger parent is the beneficiary and the allowance shall be divided equally for as long as there are two dependent parents. Thereafter, the allowance shall be payable to the surviving dependent parent.

(e) If there are no children who qualify under Section 22111, a spouse or the dependent parent or parents may elect, prior to the receipt of the first payment under subdivision (c) or (d), to receive the accumulated contributions in a lump sum subject to a reduction for any payments made from the account for any prior qualified persons.

SEC. 63. Section 23807 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

23807. To determine eligibility as a full-time student for benefits payable under family and disability allowances, all of the following shall apply:

(a) An individual shall be deemed to be a full-time student during any normal period of vacation or holiday of the institution involved, if there is sufficient evidence to satisfy the board of the intention to continue in full-time attendance at the educational institution immediately following the period of vacation or holiday.

(b) If the individual fails to return to full-time attendance following vacation or holiday, the allowance ceases as of the first of the month in which return to full-time attendance was required.

(c) An individual shall not qualify as a full-time student during any period of nonattendance if the nonattendance is due to expulsion or suspension.

(d) An individual shall not qualify as a full-time student if attendance at an educational institution is paid for and provided by the individual's employer or is in the course of on-the-job training, unless the on-the-job training is part of the regularly established school training for which credit toward a diploma, certificate, or graduation is given. An individual shall not qualify as a full-time student for any full-time course of study that is directly paid for and sponsored under the Job Corps of the Economic Opportunity Act of 1964 (Public Law 88-452), as amended, or paid for or sponsored by any armed forces for this state or the United States of America.

SEC. 64. Section 23851 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

23851. (a) A death payment of twenty thousand dollars ($20,000) shall be paid to the beneficiary, as designated pursuant to Section 23300, upon receipt of proof of death of a member who had one or more years of credited service, at least one of which had been performed subsequent to the most recent refund of accumulated retirement contributions, if the member died during any one of the following periods:

(1) While in employment for which compensation is paid.

(2) Within four months after termination of service or termination of employment, whichever occurs first.

(3) Within 12 months of the last day for which compensation was paid, if the member was on an approved leave of absence without compensation for reasons other than disability or military service.

(b) A death payment pursuant to this section shall not be payable for the death of a member that occurs within one year commencing with the effective date of reinstatement from service retirement pursuant to Section 24208 or during the six calendar months commencing with the effective date of reinstatement from disability retirement pursuant to Section 24117.

(c) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California

Consumer Price Index.

(d) A designated beneficiary may waive his or her right to the death payment in accordance with the requirements established by the system.

SEC. 65. Section 23851 of the Education Code, as amended by Section 4.5 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 66. Section 23854 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

23854. (a) A survivor benefit allowance is payable upon receipt of proof of death of a member, as defined in Section 23850, who had one or more years of credited service, at least one of which had been performed subsequent to the most recent refund of accumulated retirement contributions.

(b) For the survivor benefit allowance to be payable upon the death of a member, all of the following conditions shall be met at the time of death:

(1) Death occurred after October 15, 1992.

(2) A preretirement election of an option is not in effect.

(3) Death occurs during any one of the following periods:

(A) While in employment for which compensation is paid.

(B) Within four months after termination of service or termination of employment, whichever occurs first.

(C) Within four months after termination of disability allowance.

(D) Within four months after reinstatement from disability retirement.

(E) Within 12 months following the last day for which compensation was paid if the member was on an approved leave of absence without compensation for reasons other than disability or military service.

(4) At least one-half year of credited service had been performed subsequent to the end of the last break, if a break in service of more than one year had occurred.

(5) At least one year of credited service had been performed subsequent to the last reinstatement date, if reinstated from service retirement.

(c) The survivor benefit allowance is in lieu of the return of the member's accumulated retirement contributions.

(d) The survivor benefit allowance may be terminated, if all eligible beneficiaries formally waive their rights in accordance with the requirements established by the system.

SEC. 67. Section 23854 of the Education Code, as amended by Section 5 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 68. Section 23880 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

23880. (a) A death payment of five thousand dollars ($5,000) shall be paid to the beneficiary upon receipt of proof of death of either of the following:

(1) A retirant.

(2) A member, if the death payment pursuant to Section 23801

would have otherwise been payable or if the conditions specified pursuant to paragraph (3) of subdivision (b) of Section 23854 are met, and if the member's death occurs during one of the following periods:

(A) Within one year commencing with the effective date of reinstatement from service retirement pursuant to Section 24208.

(B) Within six months commencing with the effective date of reinstatement from disability retirement pursuant to Section 24117.

(b) The board may adjust the death payment amount following each actuarial valuation based on changes in the All Urban California Consumer Price Index.

SEC. 69. Section 23880 of the Education Code, as amended by Section 6 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 70. Section 23900 of the Education Code, as amended by Section 7 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 71. Section 23903.5 of the Education Code, as amended by Section 8 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 72. Section 23911.2 of the Education Code, as amended by Section 9 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 73. Section 24003 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24003. (a) The member shall provide medical documentation related to the impairment qualifying him or her for the disability allowance.

(b) On receipt of an application for disability allowance, the system may order a medical examination of a member to determine whether the member is incapacitated for further service. The medical examination shall be conducted by a practicing physician, selected by the board, with expertise in the member's disability and the board shall pay all costs associated with the examination. The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration. If the member refuses to submit to the required medical examination, the application for disability allowance shall be rejected. The member shall either remain in the state, or return to this state at the member's own expense, to undergo the initial evaluations or examinations, or the application shall be disallowed, unless this requirement is waived by the board. If the member is too ill to be examined, the system shall postpone the examination until the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled.

(c) The system may reject the disability allowance application if the member fails to provide requested medical documentation to substantiate a disability, as defined in Section 22125, within 45 days from the date of the request or within 30 days from the time that a legally designated representative is empowered to act on behalf of a member who is too mentally or physically incapacitated to comply.

(d) If the board determines that a member who has applied for

a disability allowance may perform his or her usual duties or those of a comparable level position with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the member to request reasonable accommodation, as directed by the board, may be grounds for cancellation of the disability allowance application.

(e) In the event that the employer fails or refuses to provide reasonable accommodation, the board may require the member to pursue an administrative appeal of the employer's denial as a condition for receiving a disability allowance.

(f) The system shall inform the member of any rejection of a disability allowance application within 30 days after that determination is made by the system.

SEC. 74. Section 24101 of the Education Code is amended to read:

24101. (a) A member may apply for a disability retirement if the member has five or more years of credited service and if all of the following requirements are met:

(1) At least four years were credited for actual service performed in a position requiring membership in the system. Credit received because of workers' compensation payments shall be counted toward the four-year requirement.

(2) The last five years of credited service have been served in this state.

(3) At least one year (1.000) of credited service was earned subsequent to the date on which the member was reinstated to membership under Section 24208.

(4) At least one year (1.000) of credited service was earned subsequent to the date on which the member's disability allowance was terminated.

(5) At least one year (1.000) of credited service was earned subsequent to the most recent refund of accumulated retirement contributions.

(6) The member is not applying for a disability retirement because of a physical or mental condition known to exist at the time the most recent membership in this system commenced and that remains substantially unchanged at the time of application.

(b) Nothing in this section shall affect the right of a member to a disability retirement if the reason that the member has less than four years of actual service is due to an on-the-job injury or disease in a position requiring membership in the system.

(c) A member shall not be eligible for disability retirement from this system while on a leave of absence to serve as a full-time elected officer of an employee organization, even if receiving service credit under Section 22711.

SEC. 75. Section 24103 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24103. (a) The member shall provide medical documentation related to the impairment qualifying him or her for the disability

retirement.

(b) On receipt of an application for disability retirement, the system may order a medical examination of a member to determine whether the member is incapacitated for further service. The medical examination shall be conducted by a practicing physician, selected by the board, with expertise in the member's disability, and the board shall pay all costs associated with the examination. The board shall pay all other reasonable costs related to travel and meals in accordance with the rates set for state employees by the Department of Personnel Administration. If the member refuses to submit to the required medical examination, the application for disability retirement shall be rejected. The member shall either remain in this state, or return to this state at the member's own expense, to undergo the initial evaluations or examinations or the application shall be disallowed, unless this requirement is waived by the board. If the member is too ill to comply with this examination, the system shall postpone the examination until a time that the member can be examined. The member or the member's treating physician shall inform the system, in writing, when the medical examination can be rescheduled.

(c) The system may reject the disability retirement application if the member fails to provide requested medical documentation to substantiate a disability, as defined in Section 22125, within 45 days from the date of the request or within 30 days from the time that a legally designated representative is empowered to act on behalf of a member who is too incapacitated mentally or physically to comply.

(d) If the board determines that a member who has applied for disability retirement may perform his or her usual duties or those of a comparable level position with the assistance of reasonable accommodation, the board may require the member to request reasonable accommodation from the employer. Failure of the member to request reasonable accommodation, as directed by the board, may be grounds for cancellation of the disability retirement application.

(e) If the employer fails or refuses to provide reasonable accommodation, the board may require the member to pursue an administrative appeal of the employer's denial as a condition for receiving a disability retirement allowance.

(f) The system shall inform the member of any rejection of a disability allowance application within 30 days after that determination is made by the system.

SEC. 76. Section 24106 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24106. Upon retirement for disability pursuant to this chapter, a member shall receive a retirement allowance that shall consist of all of the following:

(a) An annual allowance equal to 50 percent of final compensation payable in monthly installments.

(b) An additional 10 percent of final compensation for each

eligible dependent child, up to a maximum of 40 percent of final compensation. If there are more than four children, they shall share equally in the maximum allowance of 40 percent. An eligible child may waive his or her right to his or her portion in accordance with the requirements established by the system.

(c) An annuity that shall be the actuarial equivalent of the accumulated annuity deposit contributions standing to the credit of the member's account on the effective date of the disability retirement.

SEC. 77. Section 24107 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24107. A disability retirant may elect an option pursuant to Section 24301 to modify the disability retirement allowance payable pursuant to subdivision (a) of Section 24106.

SEC. 78. Section 24152.5 of the Education Code, as amended by Section 10 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 79. Section 24155 of the Education Code, as amended by Section 10.5 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 80. Section 24156 of the Education Code, as amended by Section 11 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 81. Section 24200.2 of the Education Code, as amended by Section 7 of Chapter 920 of the Statutes of 1993, is repealed.

SEC. 82. Section 24200.3 of the Education Code, as added by Section 1 of Chapter 911 of the Statutes of 1993, is amended and renumbered to read:

24306.5. (a) Any service retirant who retired under Option 2 or Option 3 with an effective date prior to January 1, 1991, may elect to change Option 2 to Option 6 or Option 3 to Option 7 under all of the following conditions:

(1) The election is made during the six-month period commencing July 1, 1994, and ending December 31, 1994.

(2) The same beneficiary under Option 2 or Option 3 is named as beneficiary under Option 6 or Option 7.

(3) The change in options is consistent with Sections 22453 and 24305.

(4) The option beneficiary is not afflicted with any known terminal illness and the service retirant shall state under penalty of perjury that to the best of his or her knowledge the option beneficiary is not afflicted with any known terminal illness.

(5) The option beneficiary has not predeceased the retirant as of the effective date of the change in options.

(b) The change in options shall be effective on the date the election is signed, provided that the election is received in the office of the system in Sacramento within 30 days after the date of the signature.

(c) If an election to change options is made pursuant to this section, the modified allowance shall be reduced in a manner determined by the board to ensure that no additional liability shall be incurred by the system pursuant to this section.

SEC. 83. Section 24201 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24201. (a) Any member who comes within any of the following descriptions may be retired for service at his or her option upon written application for retirement to the board, subject to the following conditions:

(1) The member has attained age 55 years or more and has at least five years of credited California service, at least one year of which has been performed subsequent to the most recent refund of accumulated retirement contributions, if five of the final six years of credited service have been in this state.

(2) The member is credited with service that is not used as a basis for benefits under any other public retirement system, if he or she has attained age 55 years and retires concurrently under the Public Employees' Retirement System, the Legislators' Retirement System, the University of California Retirement System, or a local system.

(b) In the calculation of allowances of members who qualify for retirement under paragraph (2) of subdivision (a) and who are not qualified for retirement under paragraph (1) of that subdivision, there shall be excluded any service performed in other states of the United States, its territories and possessions, or in Canada.

(c) Application for retirement under paragraph (2) of subdivision (a) may be made at any time.

SEC. 84. Section 24201 of the Education Code, as amended by Section 12 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 85. Section 24203 of the Education Code, as amended by Section 13 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 86. Section 24204 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24204. A retirement allowance shall become effective upon any date designated by the member, provided all of the following conditions are met:

(a) An application for retirement allowance is filed on a form provided by the system, that is executed no earlier than six months before the effective date of retirement allowance.

(b) The effective date is later than the last day of credited service for which salary is payable to the member.

(c) The effective date is no earlier than the first day of the month in which the application is received by the system in Sacramento.

(d) Either of the following conditions exists:

(1) The effective date is no earlier than one year following the date on which the member was reinstated under Section 24208, or subdivision (a) of Section 24117.

(2) The effective date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

SEC. 87. Section 24204 of the Education Code, as amended by Section 14 of Chapter 1144 of the Statutes of 1993, is repealed.

SEC. 88. Section 24205 of the Education Code, as amended by

Section 8 of Chapter 920 of the Statutes of 1993, is repealed.

SEC. 89. Section 24207 of the Education Code is amended to read:

24207. If a service retirant is reinstated and subsequently retires, the minimum retirement allowance is the allowance provided by Section 24206.

SEC. 90. Section 24212 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24212. If a disability allowance granted after June 30, 1972, is terminated for reasons other than those specified in Section 24213 and the member does not return to employment in a position requiring membership in the system, the service retirement allowance, when payable, shall be based on projected service, projected final compensation, and the age of the member on the last day of the month in which the retirement allowance begins to accrue. The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the terminated disability allowance exclusive of increments added for children.

SEC. 91. Section 24220 of the Education Code is repealed.

SEC. 92. Section 24301 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24301. (a) Any member who has filed an application for a disability retirement pursuant to Chapter 26 (commencing with Section 24100) may elect, as provided in Section 24300, to receive an actuarially modified disability retirement allowance. After receipt of a disability retirement application from a member, the board shall mail an acknowledgment notice to the member. A 30-day period shall commence with the mailing of the notice, during which time the member may change the option election made on the disability retirement application.

(b) The option shall be effective on the effective date of the disability retirement allowance. The modification of the disability retirement allowance under the option elected shall be based on the ages of the disability retirant and the named option beneficiary as of the effective date of the disability retirement. The modification shall be applicable only to the disability retirement allowance payable pursuant to subdivision (a) of Section 24106.

(c) The elected option may not be revoked or changed after the later of the effective date of the disability retirement allowance or 30 days after the mailing of the acknowledgment notice pursuant to this section.

(d) If a member dies prior to electing an unmodified allowance or an option, the death benefits shall be payable under Chapter 23 (commencing with Section 23850), regardless of whether the disability retirement application is or would have been approved.

SEC. 93. Section 24304 of the Education Code is amended to read:

24304. Upon reinstatement of a retirant to membership from disability retirement pursuant to Section 24117, any option elected at the time of retirement pursuant to Section 24301 shall be voided as

of the effective date of the reinstatement. The preretirement election of option subsequent to reinstatement pursuant to Section 24117 is subject to the following:

(a) Members may not make a preretirement election of option pursuant to Section 24307 prior to attaining 55 years of age.

(b) Any member who was receiving an unmodified disability retirement allowance prior to reinstatement may not make a preretirement election of option earlier than six months following the date on which the member reinstated pursuant to Section 24117.

(c) Any member who has elected an option pursuant to Section 24301, and is otherwise eligible to make a preretirement election of an option, may make the election anytime during the six months following the date on which the member reinstated pursuant to Section 24117. The member shall elect the same option and retain the same option beneficiary as made under Section 24301 when making the election during the six-month period following the date of reinstatement from disability retirement.

SEC. 94. Section 24306 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24306. (a) (1) A retirant who elected Option 2, Option 3, Option 4, or Option 5 may name a new option beneficiary and select a second joint and survivor option described in Section 24300 if the option beneficiary designated at the time the option was elected predeceases the retirant.

(2) The effective date of the election of the new joint and survivor option shall be one year following the date notification is received by the board, provided both the retirant and the designated option beneficiary are then living. The notification shall include proof of death of the predeceased beneficiary and a properly executed form for the new joint and survivor option.

(3) The selection of the new joint and survivor option under this subdivision and Section 24300 is subject to an actuarial modification in the amount of the retirement allowance. However, a retirant may not elect a joint and survivor option that would result in any additional liability to the fund.

(b) If the option beneficiary designated in the election of an Option 6 or Option 7 pursuant to Section 24307 dies after the member's retirement, the retirement allowance without modification for the option shall be payable to the retirant upon notification to the board and shall commence to accrue to the retirant as of the day following the date of the death of the option beneficiary. Notification to the board shall include proof of death of the predeceased beneficiary.

SEC. 95. Section 24307 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24307. (a) Any member who has qualified to make application for retirement allowance under Section 24201 may elect, as provided in Section 24300, and except as provided in Section 24305, without right of revocation or change after the effective date of his or her

retirement, to receive an actuarially modified service retirement allowance as of the date of retirement, of the retirement allowance payable to the member when and if the member retires for service. If the death of the member occurs after the date upon which the election has been signed, the election shall be in full force and effect. The election shall be void if not received in the system's office in Sacramento within 30 days after the date of signature.

(b) Upon the member's death, prior to the effective date of retirement, the beneficiary who was designated under the option elected and who survives shall receive an allowance calculated under the option, upon the assumption that the member retired for service on the date of death. The payment of the allowance to the option beneficiary shall be in lieu of the family allowance provided in Section 23804, the payment provided in paragraph (1) of subdivision (a) of Section 23802, the survivor benefit allowance provided in Section 23854, and the payment provided in subdivisions (a) and (b) of Section 23852, except that if the beneficiary dies before all accumulated contributions are paid, the balance, if any, shall be paid to the estate of the person last receiving or entitled to receive the allowance. The accumulated annuity deposit contributions and the death payment provided in Sections 23801 and 23851, shall be paid to the beneficiary in a lump sum.

(c) If the member subsequently retires for service, and the elected option has not been canceled pursuant to Section 24309, a modified service retirement allowance computed under Section 24300 and the option elected shall be paid.

(d) The amount of the service retirement allowance prior to applying the option factor shall be calculated as of the earlier of the member's age at death before retirement, or age on the last day of the month in which the member requested service retirement be effective. The modification of the service retirement allowance under the option elected shall be based on the ages of the member and the beneficiary designated under the option, at the date the election was signed.

(e) Any member reinstated to membership pursuant to Section 24208 is not eligible to file a preretirement election of an option until one year after the date of reinstatement.

(f) The system shall inform members who are qualified to make application for a preretirement election of an option, through the annual statements of account, that the option is available.

SEC. 96. Section 24308 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24308. (a) The election of an option as provided in Section 24307 shall preclude the payment of a family allowance to any beneficiary.

(b) The preretirement election of an option made by the member pursuant to Section 24307 shall be voided by the board as of the effective date of an approved disability retirement. Members receiving a disability retirement allowance pursuant to Chapter 26 (commencing with Section 24100) may not file an election of option

as provided in Section 24307.

(c) The election of an option as provided in Section 24307 shall preclude the payment of a survivor benefit allowance pursuant to Chapter 23 (commencing with Section 23850) and shall preclude the payment of the remaining balance of the member's accumulated retirement contributions prior to the death of the option beneficiary.

SEC. 97. Section 24309 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24309. (a) If a member cancels the election of an option made pursuant to Section 24307, written cancellation shall be received by the board on or before the day preceding the effective date of retirement or during the period between reinstatement pursuant to Section 24208 or 24117 and the effective date of the subsequent retirement. Regardless of how the member elects to receive his or her retirement allowance, that allowance shall be reduced by one-half of 1 percent for each year or partial year that Option 3, Option 5, or Option 7 is in effect, or by six-tenths of 1 percent for each year or partial year that Option 4 is in effect, or by three-fourths of 1 percent for each year or partial year that Option 2 or Option 6 is in effect.

(b) If the option beneficiary designated in the preretirement election of an option pursuant to Section 24307 dies prior to the member's retirement, the preretirement election shall be canceled as of the day following the date of death and the member's subsequent retirement allowance shall be subject to the allowance reduction prescribed in this section.

SEC. 98. Section 24404 of the Education Code is amended to read:

24404. (a) Effective July 1, 1973, the benefits of persons eligible for survivor benefits pursuant to former Section 14186 as it read on June 30, 1972, shall be increased as follows:

(1) Those eligible for ninety dollars ($90) per month shall be increased to one hundred five dollars ($105) per month.

(2) Those eligible for one hundred eighty dollars ($180) per month shall be increased to two hundred ten dollars ($210) per month.

(3) Those eligible for two hundred fifty dollars ($250) per month shall be increased to two hundred ninety-five dollars ($295) per month.

(b) These benefits shall be subject to the provisions of Sections 22139 and 24403 with the first annual improvement to occur on September 1, 1974, and annually thereafter.

SEC. 99. Section 24407 of the Education Code is amended to read:

24407. (a) The monthly allowances payable by the system to retirants, disabilitants, and beneficiaries are increased as of January 1, 1980, for those persons receiving allowances with respect to members who retired or died prior to June 30, 1973, to the amount that results when the initial allowance that was received by those members is multiplied by the percentage set forth opposite the year of retirement or death in the following schedule:

Period During Which Retirement or Death Occurred	Percentage
On or before June 30, 1958	180.4
12 months ending June 30, 1959	175.8
12 months ending June 30, 1960	172.2
12 months ending June 30, 1961	169.8
12 months ending June 30, 1962	167.8
12 months ending June 30, 1963	165.5
12 months ending June 30, 1964	163.0
12 months ending June 30, 1965	159.8
12 months ending June 30, 1966	156.7
12 months ending June 30, 1967	153.1
12 months ending June 30, 1968	147.5
12 months ending June 30, 1969	141.6
12 months ending June 30, 1970	134.5
12 months ending June 30, 1971	128.7
12 months ending June 30, 1972	124.5
12 months ending June 30, 1973	119.6

(b) For those retirants, disabilitants, and beneficiaries receiving an allowance with an effective date prior to July 1, 1965, the initial allowance, for purposes of this section, shall be deemed to be the allowance payable on July 1, 1965. However, for purposes of determining the allowance payable under this section, the percentage corresponding to the actual year of retirement shall be applied.

SEC. 100. Section 24414 of the Education Code is amended to read:

24414. (a) Beginning in the 1989–90 fiscal year, and until the first fiscal year in which the Supplemental Benefit Maintenance Account established by Section 22400 derives sufficient resources from the General Fund pursuant to Section 22954 to provide purchasing power of 68.2 percent as authorized by Section 24415, the board shall transfer from the retirement fund to the Supplemental Benefit Maintenance Account those funds that are necessary to provide purchasing power of 68.2 percent as authorized by Section 24415. This subdivision shall become inoperative in the first fiscal year following the joint determination by the board and the Director of Finance that the funds scheduled for transfer from the General Fund pursuant to Section 22954 to the Supplemental Benefit Maintenance Account are adequate to meet the purposes of Section 24415.

(b) The funds advanced pursuant to subdivision (a) and any funds appropriated by Item 1920-111-835 of the Budget Act of 1989 from the retirement fund to provide purchasing power protection payments shall be repaid from those funds transferred pursuant to Section 22954 that are in excess of the resources required to meet the purposes of Section 24415. Repayment shall commence in any year

in which those excess funds exist and shall continue until the time all funds advanced under this section and any funds appropriated by Item 1920-111-835 of the Budget Act of 1989 from the retirement fund to provide purchasing power protection payments are repaid. Repayment shall include regular interest from the time funds are advanced or appropriated until the time of repayment. After full repayment is made, the Director of Finance shall, notwithstanding Section 22954, adjust the percentage of the General Fund transfer in the amount which causes the balance in the account to equal a three-year reserve at the end of the subsequent fiscal year. The Director of Finance may base the adjusted rate on data provided by the board for projected payments in subject years, projected payroll, projected interest accrual to the account, and any other factors deemed relevant by the board.

(c) Notwithstanding Section 24415 or any other provision of law, if the state's contributions to the retirement fund provided by Section 22954 are, for any reason whatsoever, reduced or terminated before the retirement fund is fully repaid, as provided in subdivision (b), for all advances or transfers made pursuant to subdivision (a) and for any appropriations made by Item 1920-111-835 of the Budget Act of 1989 from the retirement fund to provide purchasing power protection payments, all duties of the board to make the advances or transfers required by subdivision (a) and to make the distributions required by Section 24415 shall immediately cease and shall have no further force or effect.

(d) It is the intent of the Legislature, in enacting the Supplemental Benefit Maintenance Program embodied in this section and Section 22400, subdivision (b) of Section 22954, Section 24415, subdivision (b) of Section 44929, and subdivision (b) of Section 87488, not to manifest any promise, except as provided in subdivision (c) of Section 22954, that, when accepted, would create a contract, express or implied. Notwithstanding any other provision of this part, nothing in the sections establishing the Supplemental Benefit Maintenance Program shall be construed as a basis for any implied contractual obligation, or as an element of exchange of consideration by a private party for consideration offered by the state, or as an intent to grant private rights of contract, or as conferring any vested right whatsoever on any present or future member, present or future annuitant, present or future surviving spouse of a present or future member or a present or future annuitant, surviving child of a present or future member or a present or future annuitant, or present or future beneficiary of the system.

(e) The board shall report annually to the Director of Finance and the appropriate fiscal and policy committees of the Legislature upon the benefits paid pursuant to Section 24415 and all actions taken pursuant to Section 22954 and this section.

SEC. 101. Section 24600 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24600. (a) The service retirement allowance or disability

allowance begins to accrue on the effective date of the retirement or disability.

(b) On the death of a retirant or a person receiving a disability allowance, or when a disability allowance is terminated, or when a retirant is reinstated to membership, the allowance ceases on the day on which the death, allowance termination, or reinstatement occurs.

(c) Family benefits begin to accrue on the day following the day the death of the member occurs and cease on the day of the event that terminates eligibility.

(d) Survivor benefit allowances payable pursuant to Chapter 23 (commencing with Section 23850) on account of surviving spouses begin to accrue on the 60th anniversary of the member's birthday or on the day following the day of the member's death, if elected by the surviving spouse, and cease on the day of the surviving spouse's death.

(e) Option benefits begin to accrue on the day following the day the retirant died and cease on the day on which the death of the beneficiary occurs.

(f) Family allowances payable on account of a full-time student begin to accrue on the day following the day the death of the member occurs. Disability allowances payable on account of a full-time student begin to accrue on the effective date of the disability allowance. The allowances payable on account of a full-time student shall terminate on the first day of the month following the end of the school quarter or semester that was in progress in the month of attainment of age 22 years. However, any adjustments to a family or disability allowance on account of a full-time student's periods of nonattendance shall be made as follows: The allowance shall cease on the first day of the month in which the nonattendance was initiated and again accrues on the first day of a subsequent month in which reattendance occurs.

(g) Disability retirement allowances payable pursuant to Chapter 26 (commencing with Section 24100) on account of dependent children begin to accrue on the effective date of the retirement allowance and shall terminate on the earlier of termination of the child's eligibility or termination of the disability retirant's eligibility for reasons other than death.

(h) The survivor benefits payable pursuant to Chapter 23 (commencing with Section 23850) on account of dependent children begin to accrue on the day following the member's date of death and shall terminate upon termination of the child's eligibility.

(i) Supplemental payments issued pursuant to Sections 24701, 24702, and 24703 to retirants, disabilitants, and beneficiaries shall begin to accrue pursuant to Sections 24701, 24702, and 24703 and shall cease to accrue as of the termination dates specified in subdivisions (a) to (h), inclusive, of this section.

(j) Notwithstanding any other provision of this part or other law, distributions from the system shall be made in accordance with Section 401 (a) (9) of the Internal Revenue Code of 1986, as amended,

including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder, and the required beginning date of benefit payments that represent the entire interest of the member in the system shall be as follows:

(1) In the case of a refund of contributions, as described in Chapter 12 (commencing with Section 23100) of this part, not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age of 70½ years or (B) the calendar year in which the member terminates employment within the meaning of subdivision (k).

(2) In the case of a retirement allowance, as defined in Section 22150, beginning not later than April 1 of the calendar year following the later of (A) the calendar year in which the member attains the age of 70½ years or (B) the calendar year in which the member terminates employment within the meaning of subdivision (k), to continue over the life of the member or the lives of the member and the member's option beneficiary, or over the life expectancy of the member or the life expectancy of the member and the member's option beneficiary.

(k) For purposes of subdivision (j), the phrase "terminates employment" means the later of the termination of employment in a position requiring or permitting membership in this system or the termination of employment in a position requiring or permitting membership in another public retirement system in this state the compensation from which may be included in final compensation under Section 22127.

SEC. 102. Section 24600 of the Education Code, as amended by Section 4 of Chapter 861 of the Statutes of 1993, is repealed.

SEC. 103. Section 24600.1 of the Education Code, as amended by Section 3 of Chapter 1083 of the Statutes of 1993, is repealed.

SEC. 104. Section 24604 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24604. (a) A retirant, disabilitant, or beneficiary shall specify whether monthly benefit payments are to be disbursed by: (1) direct deposit (electronic funds transfer); (2) direct mail to a financial or other institution; or (3) mailing to a payment address provided by the retirant, disabilitant, or beneficiary.

(b) A member or beneficiary to whom a lump-sum payment or benefit is to be disbursed shall specify the address to which the payment shall be mailed.

(c) (1) The board shall send a copy of the benefit payment information to any retirant, disabilitant, or beneficiary who has payments transmitted directly by electronic funds transfer or by mail to a financial institution, unless the board has received a written request from that person not to send a copy of the information.

(2) The board shall notify the retirant, disabilitant, or beneficiary, in the monthly benefit payment notice, of his or her right to request that no copy of the benefit payment information be mailed, pursuant to paragraph (1).

(d) A payment disbursed as specified by the member, retirant, disabilitant, or beneficiary shall fully discharge the board and the system from any claim resulting from actions taken under this section.

SEC. 105. Section 24609 of the Education Code, as added by Section 10 of Chapter 920 of the Statutes of 1993, is repealed.

SEC. 106. Section 24612 of the Education Code, as amended by Section 11 of Chapter 920 of the Statutes of 1993, is repealed.

SEC. 107. Section 24806 of the Education Code, as added by Section 2 of Chapter 893 of the Statutes of 1993, is amended to read:

24806. (a) A district retirement salary plan established under Sections 24800 to 24812, inclusive, in any school district or districts, in which the average daily attendance of all districts combined is in excess of 200,000, governed by the same governing board, may be discontinued by the governing board of the district or districts, with the consent of the majority of the active members of the system expressing their desires with respect to the discontinuance of the plan evidenced in the manner the governing board may prescribe. However, no discontinuance of any retirement plan shall be effective for any purpose unless provision is made for retirement allowances for active and retired employees of the district as provided in subdivisions (b), (c), (d), and (e).

(b) (1) Active and retired employees of the district or districts who otherwise would be members of the plan, other than teachers and persons employed in a status requisite for membership in the State Teachers' Retirement System or who were so employed prior to retirement, shall be made members and beneficiaries, respectively, of the Public Employees' Retirement System according to Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, including transfer to the system of the accumulated contributions of the employees, together with any other assets of the plan as may be determined.

(2) With respect to persons who are members of the plan at its discontinuance, it shall be provided in the contract making the employees members of the Public Employees' Retirement System, that their respective rates of contribution under the system shall be based on the age at the nearest birthday on July 1, 1944, or at the respective later effective dates of their membership in the plan, all instead of the age at the nearest birthday at the effective date of membership in the employees' system.

(3) Each employee of the district or districts who is included in the contract, but who during all or part of his or her employment in a status requisite for membership in the plan was not a member thereof, because of his or her election under an available option, or who failed to redeposit upon reentry into membership contributions previously withdrawn, shall have the right to elect by written document filed with the Board of Administration of the Public Employees' Retirement System, at any time within 90 days after the date upon which the notice of the right to make the election is mailed

by the system to the member's latest address on file in the office of the system, and prior to the date of retirement, to contribute to the system, subject to minimum payments fixed by the board of administration, and in one or more sums, or in not to exceed 60 monthly payments, an amount which, when added to his or her accumulated contributions, including interest, transferred as required in paragraph (1), will make a total amount equal to the accumulated contributions, including interest, that would have been credited to him or her in the plan, if he or she had never elected not to be a member thereof, or if he or she had redeposited the withdrawn contributions upon reentry, as the case may be. The employee shall pay to the Public Employees' Retirement System interest on the unpaid balance of the amount payable to the system, beginning with the date of discontinuance of the plan at the rate of interest currently used from time to time under the system. If the employee elects to make, and makes the contributions, and pays the interest, but not otherwise, he or she shall receive credit under the employees' system, as state service, for all the service rendered while he or she was not a member of the plan, because of his or her optional exclusion, or for all service upon which the withdrawn contributions were based, and for the purpose of paragraph (2) shall be considered as a member of the plan at its discontinuance and from November 1, 1937, or later beginning date of the service. Regardless of whether the contributions are made, the employee shall receive credit for service with which he or she was credited or would have been credited if he or she had been a member, as prior service under the plan. The contributions under this paragraph shall be added to and administered in the same manner as the contributions transferred under paragraph (1).

(4) Service rendered by active employees, who are made members of the Public Employees' Retirement System, prior to the assumption by the district or districts of the function under which the service was rendered, such as, but not limited to, cafeterias and student body activities, shall be credited under the employees' system, provided the service qualified for credit under the discontinued plan.

(5) The contract making the active employees members of the Public Employees' Retirement System, shall include the employees with respect to service rendered in a status in which they are not eligible for membership in the State Teachers' Retirement System, as provided in Section 20491 of the Government Code, and also with respect to service rendered in a status in which they are eligible for membership, but that is no longer credited under the retirement system, and the service shall be credited in the same manner applicable to service otherwise qualifying for credit.

(6) Retirement allowances being paid under the discontinued plan to retired employees of the district or districts, who are made beneficiaries of the Public Employees' Retirement System, shall be changed by action of the governing board of the districts, effective

at the discontinuance of the plan, to retirement allowances calculated on the basis of service used in the calculation of the respective allowances under the plan, and average annual salary earnable during the highest three consecutive years of creditable service, calculated according to the methods used at the date of discontinuance, under the plan in determining salary earnable, but excluding any salary based on overtime as provided in Section 20025.2 of the Government Code, but otherwise according to the formulae under the employees' system that apply to active employees who are made members thereof. The changed allowances shall be paid to beneficiaries for time commencing on the date they are made beneficiaries of the employees' system. No allowance shall be reduced by the change.

(7) If two or more districts under the control and management of a single governing board are participants in the plan, one contract between the board of administration and the governing board may include all the districts. The governing board may apportion the total contributions required under the contract, among the districts on the basis of total salaries upon which the contributions are computed, and on the basis of other pertinent information.

(8) Notwithstanding paragraph (1), the contract making active employees members of the Public Employees' Retirement System, shall include teachers and persons employed in a status requisite for membership in the State Teachers' Retirement System, with respect to service rendered in a status in which they would have been eligible for membership in the Public Employees' Retirement System, if the district or districts by which they were employed had been participating in that system under Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code. Contributions deducted from salary earned by the employees in that service, together with credited interest, and standing to the credit of the employees at the effective date of discontinuance of the plan, shall be subject to paragraph (1), in the same manner as they would have been so subject if the employees had been employed at the date of the discontinuance, in a status which was not requisite for membership in the State Teachers' Retirement System. The employees shall be members of the Public Employees' Retirement System with the same effect, but only with respect to that service, as if they had been employed in a status that would have qualified them for membership under other paragraphs of this subdivision. The employees shall continue in membership and shall be entitled to benefits in the same manner as if they individually were credited with at least five hundred dollars ($500) in accumulated contributions. In the computation of the members' benefits under the Public Employees' Retirement System, their compensation earnable while they are members of the State Teachers' Retirement System shall be taken into consideration.

(c) Notwithstanding Sections 35161, 35162, Article 1 (commencing with Section 7000) of Chapter 1 of Part 5, Article 2

(commencing with Section 10010) of Chapter 1 of Part 7, Article 1 (commencing with Section 12500) of Chapter 5 of Part 8, this part, Article 5 (commencing with Section 32340) of Chapter 3 of Part 19, and Part 25 (commencing with Section 44000), contributions to the discontinued district retirement plan made by teachers and other persons employed by the district or districts in a status requisite for membership in the State Teachers' Retirement System standing to their individual credit at the date of discontinuance of the district retirement plan shall be deposited in the Retirement Annuity Fund with credited interest, to be applied on the amount due from the teachers, but not to exceed the amount due. Likewise an amount equal to the actuarial equivalent of the annuity portion of the retirement allowance to which the respective retired teachers and other persons employed by the district or districts, prior to retirement, in a status requisite for membership in the State Teachers' Retirement System were entitled under the plan, based on the interest rate and mortality tables used in its determination, shall be deposited in the Retirement Annuity Fund, to be applied on the amount due from the respective retired teachers, but not to exceed the amount due. Any excess of the contributions with credited interest or the actuarial equivalents, as the case may be, over the respective amounts due under those sections, shall be paid to the respective active and retired teachers and other persons. Further amounts, if any, due under those sections after the deposits, shall be paid to the Retirement Annuity Fund by the respective active and retired teachers and other persons. If any of the teachers or other persons who is not retired, is not entitled to credit under the State Teachers' Retirement System for all or part of his or her service credited under the plan, or if any of the retired teachers or other persons is not entitled to a retirement allowance from the system, either before or after the discontinuance, the provisions of this subdivision about contributions and credited interest or about the actuarial equivalent of annuity portions of retirement allowances, as the case may be, shall not apply to him or her with respect to service that is not credited under the state system, until and unless he or she becomes entitled to credit for that service or to an allowance from the state system, based on service that was credited to him or her under the discontinued plan. The balance of the assets held in the various funds of the discontinued district retirement plan after the transfers, deposits, and payments required by this section, or after establishment of reserves from which the transfers, deposits, and payments shall be made, shall be delivered to the district or districts in which the plan is discontinued.

(d) The district or districts in which the district retirement plan is discontinued shall pay monthly to teachers and other persons employed by the district or districts, prior to retirement, in a status requisite for membership in the State Teachers' Retirement System who were retired prior to the date of the discontinuance an amount equal to the amount by which the retirement allowance to which any

of the retired teachers or other persons was entitled under the plan exceeds the increase in the teacher's or other person's retirement allowance under the State Teachers' Retirement System resulting from the discontinuance. If the amount payable to any teacher or other person, under the previous sentence, is less than two dollars ($2), the district or districts may pay, in lieu of that amount, one amount that shall be actuarially equivalent to the monthly amount thereafter payable, according to the interest rate and mortality table used in the determination of the teacher's or other person's retirement allowance under the district retirement plan. The payment of the actuarially equivalent amount shall discharge fully the district's liability to the teacher or other person under this subdivision. The arrangement under which the amounts are paid by the district shall not be considered to be a local retirement system for the purposes of Chapter 1 (commencing with Section 22000) to Chapter 19 (commencing with Section 23200), inclusive, and Chapter 21.5 (commencing with Section 23700), nor shall the amount be taken into account in the calculation of retirement allowances under the State Teachers' Retirement System. If any of the teachers or other persons is not entitled to a retirement allowance from the State Teachers' Retirement System, either before or after discontinuance, the district or districts shall pay monthly to him or her, an amount equal to his or her retirement allowance under the plan prior to the discontinuance. If any teacher or other person has left the service of the district or districts, and is in a status under the plan, which if continued would qualify him or her for a retirement allowance without his or her return to that service, but is in a status that would otherwise not qualify him or her for retirement under the state system, the district or districts shall pay monthly to the teacher or other person, beginning at the date upon which he or she would have qualified for service retirement under the plan, an amount equal to the retirement allowance for which he or she would have qualified if the plan had not been discontinued. If any teacher or other person has credit under the plan for service that does not qualify for credit under either the State Teachers' Retirement System or Public Employees' Retirement System, the district or districts shall pay monthly to the teacher or other person, beginning on the date upon which he or she would have qualified for service retirement under the plan, an amount equal to the retirement allowance for which he or she would have qualified on the basis of that service if the plan had not been discontinued. If the individual at a later date becomes entitled to a retirement allowance from the state system, based on service that was credited to him or her under the discontinued plan, the monthly payments shall cease, and he or she shall become subject to subdivision (c), and the first four sentences of this subdivision, in the same manner as he or she would have been subject, if he or she had been entitled to a retirement allowance at the date of discontinuance, but calculation of actuarial equivalents and amounts

payable shall be made as of the later date.

(e) If any person who was retired prior to the discontinuance from a position requisite for membership in the State Teachers' Retirement System, under a district retirement salary plan that is discontinued pursuant to this section, elected either under the plan or under the system, but not under both, to have the retirement allowance modified according to an option under which he or she would receive a smaller allowance and provide a benefit for his or her beneficiary, the person shall have the right, to be exercised not later than 60 days after the discontinuance of the plan, to change his or her election under the State Teachers' Retirement System with respect to the options. Any computations of actuarial equivalent under a changed election shall be made as of the date of discontinuance of the plan, and no adjustment shall be included in the computation on account of retirement allowance payments made prior to that date.

SEC. 108. Sections 5.5 and 6.5 of this act incorporate changes in the State Teachers' Retirement Law proposed by AB 3832 (Chapter 193 of the Statutes of 1994), and shall become operative on January 1, 1995, the date on which AB 3832 takes effect, at which time Section 5 of this act shall cease to be operative.

SEC. 109. Section 50.5 of this bill incorporates amendments to Section 23104 of the Education Code proposed by both this bill and AB 2550. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, but this bill becomes operative first, (2) each bill amends Section 23104 of the Education Code, and (3) this bill is enacted after AB 2550, in which case Section 23104 of the Education Code, as amended by Section 50 of this bill, shall remain operative only until the operative date of AB 2550, at which time Section 50.5 of this bill shall become operative.

SEC. 110. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act would, among other things, adapt provisions of the State Teachers' Retirement Law (Part 13 (commencing with Section 22000) of the Education Code) that were recodified by Chapter 893 of the Statutes of 1993 to other statutes enacted in 1993. Thus, in order that statutory consistency may be achieved at the earliest possible time, and that administrative confusion may be avoided, it is necessary that this act take effect immediately.

CHAPTER 934

An act to add Section 709.2 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. This act shall be known and may be cited as the California Long Distance Telecommunications Consumer Choice Act.

SEC. 2. The Legislature finds and declares as follows:

(a) The Public Utilities Commission, in its November 1993 report entitled: ENHANCING CALIFORNIA'S COMPETITIVE STRENGTH; A STRATEGY FOR TELECOMMUNICATIONS INFRASTRUCTURE, recommends opening all telecommunications markets to competition and aggressively streamlining regulation to accelerate the pace of innovation. The first two specific recommendations set forth in the report are as follows:

(1) Open all telecommunications markets, including local telephone service to competitive entry by January 1, 1997.

(2) Support the removal of federal barriers to open competitive entry into telecommunications and information markets in states that have opened all telecommunications markets. In particular, support efforts to lift the federal restrictions on long-distance, manufacturing, and cable programming offerings by California telephone companies at the time the Public Utilities Commission opens the local telephone market to full competitive entry at the end of 1996.

(b) The United States Congress has under consideration a number of legislative initiatives intended to open local and long-distance telecommunications markets to competition. As an example, one measure removes federal barriers embodied in a federal court order and expressly delegates to the states the authority to approve, in statute, open competitive intrastate interexchange telecommunications service.

(c) The President of the United States, as expressed in public statements of the Vice President, has endorsed removal of federal barriers and the opening of all telecommunications markets to competition.

(d) The United States District Court for the District of Columbia, in the modification of final judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192, reserved the long-distance service markets within the service areas for local exchange telephone companies, but other telecommunications companies have made competitive inroads into those markets and the Public Utilities Commission has announced it intends to allow

open competition within the service areas. Telecommunications providers that are not restricted by the federal court and are able to offer service both within and between service areas in California will have a significant competitive advantage over those companies still prohibited from offering competing services. The resulting loss of revenues to the local exchange companies will place upward pressure on basic exchange rates and could threaten the financial viability of those companies and the availability of universally affordable telephone services increasing the likelihood of forcing Californians into one of two groups; the "information rich" or the "information poor."

(e) The California economy and the state's communications infrastructure will both benefit if all communications service providers are allowed to invest and compete on a fair and equal basis without the prohibitions imposed by the federal court.

(f) Connecting all California homes and businesses to the information superhighway has the potential to position California on the leading edge of the telecommunications revolution. The emerging technologies will encourage economic growth and provide a variety of new benefits in many areas, including education and health care as examples, to all Californians. These technologies will also allow California business to compete in national and international markets.

(g) California consumers and the state's economy could benefit from the proposed elimination of federal court barriers that prohibit intrastate interexchange telecommunications service. Individual consumers will no longer be forced to pay long-distance charges for calling telephone numbers that, while located in the same community of common interest, were arbitrarily placed in the service area of a different and more distant community.

(h) California consumers and the state's economy could benefit from the proposed increased and enhanced competition in the provision of intrastate interexchange telecommunications services, especially if the largest telecommunications provider headquartered in the state is allowed to compete in this market.

(i) The risk of unfair competition or anticompetitive behavior that might result from opening this market to local telephone companies can be minimized by appropriate regulatory safeguards, oversight, and state and federal antitrust laws, and by encouraging open competition within the local exchange markets.

(j) It is the intent of the Legislature in enacting this act that, in permitting local exchange telephone corporations to provide intrastate interexchange telecommunications service, jobs be created for California residents.

(k) It is the intent of the Legislature in enacting this act that California consumers of intrastate long-distance services will benefit from increased competition in the marketplace and lower instrastate interexchange rates that should result from entry of additional competitors, such as local exchange carriers, into the intrastate

interexchange market.

SEC. 3. Section 709.2 is added to the Public Utilities Code, to read:

709.2. (a) The commission shall authorize fully open competition for intrastate interexchange telecommunications service, otherwise known as intrastate interLATA, or intrastate service between local access and transport areas, in California if federal legislation or court action amends the modification of final judgment entered by the United States District Court for the District of Columbia in United States v. Western Electric, Civil Action No. 82-0192, to allow open competition in that service.

(b) (1) If neither federal law nor court action has authorized full intrastate interexchange competition, the commission shall order the opening of all intrastate interexchange telecommunications markets to full competition, and the commission shall order, no later than October 1, 1995, all telephone corporations subject to the restrictions in the modification of final judgment to offer full intrastate interexchange service, and to seek a waiver of the interexchange telecommunications service restriction from the federal court overseeing the modification of final judgment. The service may be offered through resale and through facilities owned by the telephone corporations.

(2) If the federal district court denies the waiver request, and an appeal is taken and the federal Court of Appeals affirms the denial and refuses to remand the waiver request to the federal district court for further review, and review is sought in the United States Supreme Court and that court refuses to review or reviews and affirms the lower court decisions denying the waiver, and the commission determines that all reasonable legal recourse has been exhausted by the telephone corporation, the commission shall rescind the order.

(3) No order shall be implemented, nor services marketed by the telephone corporations until a waiver is granted or until federal legislation or court action amends the modification of final judgment to allow open competition in intrastate interexchange telecommunications service.

(c) No commission order authorizing or directing competition in intrastate interexchange telecommunications shall be implemented until the commission has done all of the following, pursuant to the public hearing process:

(1) Determined that all competitors have fair, nondiscriminatory, and mutually open access to exchanges currently subject to the modified final judgment and interexchange facilities, including fair unbundling of exchange facilities, as prescribed in the commission's Open Access and Network Architecture Development Proceeding (I. 93-04-003 and R. 93-04-003).

(2) Determined that there is no anticompetitive behavior by the local exchange telephone corporation, including unfair use of subscriber information or unfair use of customer contacts generated

by the local exchange telephone corporation's provision of local exchange telephone service.

(3) Determined that there is no improper cross-subsidization of intrastate interexchange telecommunications service by requiring separate accounting records to allocate costs for the provision of intrastate interexchange telecommunications service and examining the methodology of allocating those costs.

(4) Determined that there is no substantial possibility of harm to the competitive intrastate interexchange telecommunications markets.

(d) The opening of intrastate interexchange telecommunications markets to competition pursuant to this section shall not precede, but may be coincident with, the opening of competition within the local exchange markets, as expressly authorized by the commission, subject to subdivision (c).

(e) No part of this section shall be construed as constituting a state action within the meaning of Parker v. Brown, 317 U.S. 341.

(f) No part of this section shall be construed to preempt application of the unfair practices or antitrust laws of this state.

SEC. 4. This act shall not take effect unless Assembly Bill 3643 of the 1993–94 Regular Session of the Legislature is enacted and takes effect.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 935

An act to amend Sections 13, 221, 1348, 8047, 8280, 8396, 8397, 8594, 8842, and 12002.2 of, to add Section 1355 to, to add and repeal Section 8397.1 of, and to repeal Section 8592 of, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 13 of the Fish and Game Code is amended to read:

13. Unless otherwise specified by statute, any notice or other

written communication required to be sent to any person by this code or regulations adopted pursuant thereto, is sufficient notice if sent by first-class mail to the last address furnished to the department by that person.

SEC. 2. Section 221 of the Fish and Game Code is amended to read:

221. This article shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 1348 of the Fish and Game Code is amended to read:

1348. (a) The board shall authorize the acquisition of such real property, rights in real property, water, or water rights as may be necessary to carry out the purposes of this chapter. The board may authorize acquisition by the department, but the department shall not acquire any of such property by eminent domain proceedings except such property as may be necessary to provide access roads or rights-of-way to areas to be used for fishing the coastal waters of the Pacific Ocean, and then only if the board of supervisors of the affected county has agreed by resolution to those proceedings for each parcel of land, and has further agreed by resolution to maintain the road or right-of-way. The board may authorize acquisition by the State Public Works Board, which may effect acquisitions pursuant to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code.

(b) For the purposes of this chapter and Chapter 4.1 (commencing with Section 1385), the board may authorize the acquisition of interests in real property and water rights by means of gifts, purchases, leases, easements, the transfer or exchange of property for other property of like value, transfers of development rights or credits, and purchases of development rights, conservation easements, and other interests.

(c) To further implement this chapter and Chapter 4.1 (commencing with Section 1385), the board may authorize the department to do any of the following:

(1) Accept federal grants and receive gifts, donations, subventions, rents, royalties, and other financial support from public or private sources. Proceeds received from any of these sources shall be deposited in the Wildlife Restoration Fund.

(2) Notwithstanding any other provision of law, lease, sell, exchange, or otherwise transfer any real property, interest in real property, or option acquired by or held under the jurisdiction of the board or the department. Except as provided in Section 1355, proceeds from transactions entered into pursuant to this paragraph shall be deposited in the Wildlife Restoration Fund.

(3) Lease degraded potential wildlife habitat real property to nonprofit organizations, local governmental agencies, or state and federal agencies if the lessee agrees to restore the real property to

its highest possible wildlife habitat value and maintain the real property at that highest possible wildlife habitat value. Proceeds from any lease or rental and interest thereon shall be deposited in the Wildlife Restoration Fund.

(4) Acquire former wildlife habitat real property, including riparian habitat real property, restore and sell the real property, or any interest therein, to private owners, local governmental agencies, or state departments and agencies or exchange the property for other real property, if a written and recorded agreement is first secured to keep and maintain the real property as wildlife habitat in perpetuity. The agreement shall contain a reversion if the real property sold or exchanged is not maintained as wildlife habitat. The agreement containing the reversion shall be set forth in any conveyance transferring any real property, interest in real property, or option subject to this section. Proceeds from the sales shall be deposited in the Wildlife Restoration Fund.

SEC. 4. Section 1355 is added to the Fish and Game Code, to read:

1355. The net proceeds of the sale or other disposition of real property used as a fish hatchery that has been acquired by or is under the jurisdiction of the board or the department, either in easement or in fee, shall be deposited in the Wildlife Restoration Fund or the Fish and Game Preservation Fund, as determined by the board, and shall be available for acquisition, enhancement, restoration, or construction projects for the benefit of wildlife.

SEC. 5. Section 8047 of the Fish and Game Code, as amended by Section 8 of Chapter 617 of the Statutes of 1993, is amended to read:

8047. (a) A person licensed under Article 7 (commencing with Section 8030) who takes his or her own fish shall make a legible record in the form of the landing receipt as required by Sections 8043 and 8043.1 at the time the fish are brought ashore. The original signed copy of the landing receipt shall be delivered by the licensee to the department on or before the first and 16th day of each month. A copy of the landing receipt shall be retained by the licensee for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

(b) Every commercial fisherman who sells fish taken from the waters of this state or brought into this state in fresh condition to persons not licensed to receive fish for commercial purposes pursuant to Article 7 (commencing with Section 8030) shall make a legible record in the form of the landing receipt required by Sections 8043 and 8043.1. Persons subject to Section 8043 shall remit the landing tax imposed by Section 8041. The person taking, purchasing, or receiving the fish, whether or not licensed under Article 7 (commencing with Section 8030), shall sign the landing receipt. The original signed copy of the landing receipt shall be delivered by the commercial fisherman to the department on or before the first and

16th day of each month. A copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be retained by the person taking, purchasing, or receiving the fish until they are prepared for consumption or otherwise disposed of. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

(c) (1) Except as provided in subdivision (d), every commercial fisherman or his or her designee, who transports, causes to be transported, or delivers to another person for transportation, any fish, except herring, taken from the waters of this state or brought into this state in fresh condition, shall fill out a transportation receipt according to the instructions and on forms provided by the department at the time the fish are brought ashore.

(2) The name of the person transporting the fish shall be entered on the transportation receipt.

(3) The original signed copy of the transportation receipt shall be delivered by the commercial fisherman to the department on or before the first and 16th day of each month. A copy of the transportation receipt shall be retained by the commercial fisherman who filled it out for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the transportation receipt shall be given to and retained by the person transporting the fish until the fish are sold fresh, processed, or otherwise disposed of.

(4) The transportation receipt is required only for transit purposes.

(5) A person transporting fish from the point of first landing under a transportation receipt is not required to be licensed to conduct the activities of a fish receiver as described in Section 8033.

(d) Groundfish transportation receipts may periodically be issued by the department to licensed fish receivers to transport groundfish taken with a trawl net, subject to federal groundfish regulations, that require transporting to a separate location for weighing, excluding ice, and purchasing of the catch. Licensed fish receivers may use groundfish transportation receipts subject to the following terms and conditions:

(1) The gross weight of each load, by species, and other information specified by the department, shall be accurately recorded on the groundfish transportation receipt at the time the fish are received at the place of landing.

(2) A completed copy of the groundfish transportation receipt shall be delivered to the commercial fisherman or his or her designee at the time the load is received at the place of landing. The commercial fisherman shall retain a copy of the groundfish transportation receipt for four years during which time it shall be

available for inspection by the department.

(3) Each container of federally regulated groundfish, covered under a groundfish transportation receipt, shall be labeled throughout the loading, unloading, and transportation process with the vessel name, date brought ashore, and weight of the load.

(4) The commercial fisherman shall retain a copy of the groundfish transportation receipt on the vessel, in lieu of the landing receipt, and the retention of the receipt shall be deemed to constitute compliance with subdivision (a) of Section 8046.1.

(5) The fish landing receipt shall be completed within 48 hours of the completion of the groundfish transportation receipt.

(6) Not more than 10 percent loss of weight in the load shall be permitted between the weight recorded on the groundfish transportation receipt and the weight recorded on the fish landing receipt.

(7) The commercial fisherman or his or her designee shall be provided a copy of the fish landing receipt within 72 hours of the completion of the groundfish transportation receipt. The fish landing receipt shall be retained as required under Sections 8046 and 8046.1.

(8) If fish are transported under the authority of a groundfish transportation receipt issued pursuant to this section, the fish receiver shall attach the department's copy of the groundfish transportation receipt to the department's copy of the fish landing receipt and submit those receipts to the department on the first and sixteenth of each month.

(e) This section shall become inoperative on April 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 8047 of the Fish and Game Code, as added by Section 9 of Chapter 617 of the Statutes of 1993, is amended to read:

8047. (a) A person licensed under Article 7 (commencing with Section 8030) who takes his or her own fish shall make a legible record in the form of the landing receipt as required by Sections 8043 and 8043.1 at the time the fish are brought ashore. The original signed copy of the landing receipt shall be delivered by the licensee to the department on or before the first and 16th day of each month. A copy of the landing receipt shall be retained by the licensee for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

(b) Every commercial fisherman who sells fish taken from the waters of this state or brought into this state in fresh condition to persons not licensed to receive fish for commercial purposes pursuant to Article 7 (commencing with Section 8030) shall make a legible record in the form of the landing receipt required by Sections 8043 and 8043.1. Persons subject to Section 8043 shall remit the

landing tax imposed by Section 8041. The person taking, purchasing, or receiving the fish, whether or not licensed under Article 7 (commencing with Section 8030), shall sign the landing receipt. The original signed copy of the landing receipt shall be delivered by the commercial fisherman to the department on or before the first and 16th day of each month. A copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be retained by the person taking, purchasing, or receiving the fish until they are prepared for consumption or otherwise disposed of. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

(c) (1) Every commercial fisherman or his or her designee, who transports, causes to be transported, or delivers to another person for transportation, any fish, except herring, taken from the waters of this state or brought into this state in fresh condition, shall fill out a transportation receipt according to the instructions and on forms provided by the department at the time the fish are brought ashore.

(2) The name of the person transporting the fish shall be entered on the transportation receipt.

(3) The original signed copy of the transportation receipt shall be delivered by the commercial fisherman to the department on or before the first and 16th day of each month. A copy of the transportation receipt shall be retained by the commercial fisherman who filled it out for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the transportation receipt shall be given to and retained by the person transporting the fish until the fish are sold fresh, processed, or otherwise disposed of.

(4) The transportation receipt is required only for transit purposes.

(5) A person transporting fish from the point of first landing under a transportation receipt is not required to be licensed to conduct the activities of a fish receiver as described in Section 8033.

(d) This section shall become operative on April 1, 1997.

SEC. 7. Section 8280 of the Fish and Game Code is amended to read:

8280. (a) No person shall take or land Dungeness crab for commercial purposes without having obtained from the department a revocable Dungeness crab permit. The permit is valid from April 1 to March 31, inclusive, of the following year, or, if issued on or after April 1, for the remainder of that permit year. Except as otherwise provided by statute the permit is not transferable.

(b) The department shall issue Dungeness crab permits only to the following persons:

(1) A person who landed crab commercially in this state in his or

her own name, as documented by one or more landing receipts issued pursuant to Section 8043 between August 5, 1982, and August 5, 1992.

(2) A person who had a permit issued under this section in the previous permit year and who landed Dungeness crab commercially in this state in his or her own name in that previous permit year, as documented by one or more landing receipts issued pursuant to Section 8043.

(3) (A) A person who is qualified pursuant to hardship, as determined pursuant to Section 8280.5.

(B) The permit issued to a person who qualified pursuant to this paragraph in the previous season and who participated in the California Dungeness crab fishery during that season shall not be renewed unless the person files an affidavit with the department stating that the person is not eligible to participate with the vessel or gear for which the investment under subdivision (b) was made in the Dungeness crab fishery of any other state because of restrictions imposed by the other state on the issuance of permits or licenses for the Dungeness crab fishery.

(c) The department shall charge a fee for each Dungeness crab permit to pay all reasonable and necessary costs for carrying out this section. The fee for the permit shall be seventy-five dollars ($75). No person shall be issued more than one Dungeness crab permit.

(d) (1) Except as provided in paragraph (2), each person listed on a landing receipt submitted for the purpose of landing Dungeness crab shall have a Dungeness crab permit.

(2) Upon notification to the department, a permittee may authorize another person to substitute for the permittee and to land Dungeness crab under the authority of the permittee's Dungeness crab permit. Notification shall be by certified mail postmarked not less than three working days prior to the period of substitution to a department office specified by the department and shall contain all of the information required by the department.

(e) A California commissioner or other representative from California on the Pacific States Marine Fisheries Commission shall transmit to the Legislature a copy of its tristate Dungeness crab study, along with any findings and recommendations, on the need to limit entry into this state's Dungeness crab fishery or to otherwise restrict the amount of gear that may be used in that fishery within six months of the completion of that study.

(f) This section shall become inoperative on April 1, 1997, and as of January 1, 1998, is repealed, unless a later enacted statute which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 8396 of the Fish and Game Code is amended to read:

8396. (a) The owner or operator of a commercial fishing vessel and all divers taking sea cucumbers for commercial purposes shall obtain a revocable sea cucumber permit and shall be in possession of

the permit when engaged in those activities.

(b) To qualify for a permit an applicant shall meet both of the following criteria:

(1) Prove to the director's satisfaction that the applicant landed a minimum of 50 pounds of sea cucumbers during any calendar year, or portion thereof, from January 1, 1988, to June 30, 1991, inclusive.

(2) Landings used to qualify applicants for sea cucumber permits shall have been reported to the department as required by Section 8043, with the name of the applicant shown on the receipt.

(c) In order to renew a sea cucumber permit, an applicant shall have been issued a sea cucumber permit in the immediately preceding year.

(d) Permits are nontransferable. Not more than one permit shall be issued to any person.

(e) The fee for sea cucumber permits shall be two hundred fifty dollars ($250).

(f) Sea cucumber permits shall be valid from April 1 through March 31 of the following year, or if issued after the beginning of such term, for the remainder thereof.

(g) Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the department.

(h) Permitholders, their agents, employees, or those acting under their direction or control, shall comply with all applicable provisions of this code relating to commercial fishing and any regulations adopted pursuant thereto.

(i) Any person who can demonstrate to the satisfaction of the department on or before April 1, 1995, that he or she had a vessel and trawl gear capable of fishing for sea cucumbers under a purchase contract, construction, or conversion between January 1, 1992, and May 1, 1992, and who otherwise was unable to meet the minimum landing requirements, may appeal the denial of a sea cucumber permit under this section to the director. The person shall provide proof of the purchase contract, construction, or conversion based on the submission of documents satisfactory to the department that may include, but are not limited to, canceled checks, receipts, and contracts and that substantiate the claimant's appeal. The appeal shall be in a form prescribed by the department. Appeals that are postmarked or presented after April 1, 1995, shall not be considered.

(j) This section shall become inoperative on April 1, 1998, and as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 8397 of the Fish and Game Code is amended to read:

8397. (a) If this section is operative as provided in Section 8397.1, the owner or operator of a commercial fishing vessel taking hagfish for commercial purposes shall obtain a revocable hagfish permit and shall be in possession of the permit when engaged in those activities.

(b) The department shall issue permits to the owner or operator of a currently registered commercial fishing vessel.

(c) Permits are nontransferable. Not more than one permit shall be issued to any person.

(d) The fee for hagfish permits shall be two hundred fifty dollars ($250).

(e) Hagfish permits shall be valid from April 1 through March 31 of the following year, or if issued after the beginning of such term, for the remainder thereof.

(f) Each permittee shall complete and submit an accurate record of all hagfish fishing activities on forms provided by the department.

(1) Hagfish may only be taken with traps, subject to Article 1 (commencing with Section 9000) of Chapter 4 except that a hagfish fisherman operating under a hagfish permit is not required to possess a general trap permit pursuant to Section 9001.

(2) The number of traps that may be possessed aboard and used by any fishing vessel operating under a hagfish permit shall not exceed 1,200 Korean traps or 300 of any other type of trap. No fishing vessel operating under a hagfish permit may possess both Korean traps and other types of traps aboard the vessel at the same time. As used in this paragraph, "Korean trap" means a molded plastic cylinder, not exceeding 6 inches in diameter and 24 inches in length.

(g) Permitholders, their agents or employees, or those acting under their direction or control, shall comply with all applicable provisions of this code relating to commercial fishing, and any regulations adopted pursuant thereto.

(h) This section shall become inoperative on April 1, 1998, and as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. Section 8397.1 is added to the Fish and Game Code, to read:

8397.1. (a) The department shall, on or before September 15 of each year, determine the total landings of hagfish for the 12-month period ending on the previous June 30 from the landing receipts submitted pursuant to Section 8043.

(b) Section 8397 shall be operative for the next commercial fishing license year, beginning the following April 1, only if the total landings of hagfish determined pursuant to subdivision (a) exceed 250,000 pounds.

(c) If, pursuant to subdivision (b), Section 8397 becomes operative, the department shall provide general notice of the permit requirements to persons engaged in commercial fishing.

(d) This section shall become inoperative on April 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 11. Section 8592 of the Fish and Game Code is repealed.

SEC. 12. Section 8594 of the Fish and Game Code is amended to

read:

8594. From Point Conception south to the Mexican border, prawns or shrimp may be taken with prawn or shrimp traps only in waters 50 fathoms or greater in depth.

SEC. 13. Section 8842 of the Fish and Game Code, as amended by Section 1 of Chapter 1104 of the Statutes of 1993, is amended to read:

8842. (a) Trawl nets of a design prescribed by the commission may be used or possessed to take shrimps or prawns under a revocable permit issued by the department under regulations that the commission shall prescribe.

Sections 8831, 8833, 8835, and 8836 do not apply to trawl nets used or possessed under a permit issued pursuant to this section.

(b) When fishing for pink shrimp (Pandalus jordani) under a permit issued pursuant to this section, it is unlawful to possess in excess of 1,500 pounds of incidentally taken fish per calendar day of a fishing trip, except Pacific whiting, shortbelly rockfish, and arrowtooth flounder, which may be taken in any amount not to exceed federal regulations. No Pacific halibut and not more than 150 pounds of California halibut shall be possessed or landed when fishing under a permit issued pursuant to this section. When fishing for ridgeback prawn and spotted prawn under a permit issued pursuant to this section, it is unlawful to possess in excess of 1,000 pounds of incidentally taken fish per trip.

(c) Permits to take and land pink shrimp shall be issued only to those persons who possessed, during any previous permit year, a permit issued under this section and any regulations adopted pursuant to this section.

(d) The fee for the permit to take pink shrimp shall be two hundred eighty-five dollars ($285).

(e) This section shall become inoperative on April 1, 1997, and, as of January 1, 1998, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 14. Section 8842 of the Fish and Game Code, as added by Section 2 of Chapter 1104 of the Statutes of 1993, is amended to read:

8842. (a) Trawl nets of a design prescribed by the commission may be used or possessed to take shrimps or prawns under a revocable permit issued by the department under regulations that the commission shall prescribe.

Sections 8831, 8833, 8835, and 8836 do not apply to trawl nets used or possessed under a permit issued pursuant to this section.

(b) When fishing for pink shrimp (Pandalus jordani) under a permit issued pursuant to this section, it is unlawful to possess in excess of 1,500 pounds of incidentally taken fish per calendar day of a fishing trip, except Pacific whiting, shortbelly rockfish, and arrowtooth flounder, which may be taken in any amount not in excess of federal regulations. No Pacific halibut and not more than 150 pounds of California halibut shall be possessed or landed when fishing under a permit issued pursuant to this section. When fishing

for ridgeback prawn and spotted prawn under a permit issued pursuant to this section, it is unlawful to possess in excess of 1,000 pounds of incidentally taken fish per trip.

(c) This section shall become operative on April 1, 1997.

SEC. 15. Section 12002.2 of the Fish and Game Code is amended to read:

12002.2. (a) Notwithstanding any other provision of law, a violation of Section 7145 or of a regulation requiring a license to be displayed is an infraction and not a misdemeanor, punishable by a fine of not less than two hundred fifty dollars ($250) or more than one thousand dollars ($1,000) for a first offense. If a person is convicted of a violation of Section 7145 or of a regulation requiring a license to be displayed within five years of a separate offense resulting in a conviction of a violation of Section 7145 or of a regulation requiring a license to be displayed, that person shall be punished by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000). If a person convicted of a violation of Section 7145 or of a regulation requiring a license to be displayed is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this subdivision.

(b) If a person is convicted of a violation of Section 7145 or of a regulation requiring a license to be displayed and produces in court a license issued pursuant to Section 7146 and valid at the time of the person's arrest, and if the taking was otherwise lawful with respect to season, limit, time, and area, the court may reduce the fine imposed for the violation of Section 7145 or of the regulation requiring a license to be displayed to fifty dollars ($50).

(c) A person shall not be charged or convicted for both a violation of Section 7145 and a regulation requiring a license to be displayed for the same act.

SEC. 16. Section 7 of this act shall become operative only if Assembly Bill 3337 of the 1993–94 Regular Session does not become effective and operative or, if it does become effective and operative, it does not add Section 8280 to the Fish and Game Code.

SEC. 17. Section 13 of this act shall become operative only if Assembly Bill 1790 of the 1993–94 Regular Session does not become effective and operative, or, if it does become effective and operative, it does not amend Section 8842 of the Fish and Game Code.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the

California Constitution.

CHAPTER 936

An act to amend Sections 2558, 42238, and 56712 of, the Education Code, to amend Sections 33320.1, 33328.5, 33333.2, 33333.4, 33333.6, 33334.3, 33334.12, 33344.5, 33353.2, 33413, 33433, 33445, 33452, 33490, 33607.5, 33607.7, and 33676 of the Health and Safety Code, and to amend Section 38 of Chapter 942 of the Statutes of 1993, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 2558 of the Education Code, as amended by Chapter 153 of the Statutes of 1994, is amended to read:

2558. Notwithstanding any other provision of law, for the 1979–80 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall apportion state aid to county superintendents of schools pursuant to the provisions of this section.

(a) The Superintendent of Public Instruction shall total the amounts computed for the fiscal year pursuant to Sections 2550, 2551, 2551.3, 2554, 2555, and 2557. For the 1979–80 fiscal year and for purposes of calculating the 1979–80 fiscal year base amounts in succeeding fiscal years, the amounts in Sections 2550, 2551, 2552, 2554, 2555, and 2557, as they read in the 1979–80 fiscal year, shall be multiplied by a factor of 0.994. For the 1981–82 fiscal year and for purposes of calculating the 1981–82 fiscal year base amounts in succeeding fiscal years, the amount in this subdivision shall be multiplied by a factor of 0.97.

(b) For the 1995–96 fiscal year and each fiscal year thereafter, the county superintendent of schools shall adjust the total revenue limit computed pursuant to this section by the amount of increased or decreased employer contributions to the Public Employees' Retirement System resulting from the enactment of Chapter 330 of the Statutes of 1982, adjusted for any changes in those contributions resulting from subsequent changes in employer contribution rates, excluding rate changes due to the direct transfer of the state-mandated portion of the employer contributions to the Public Employees' Retirement System through the current fiscal year. The adjustment shall be calculated for each county superintendent of schools as follows:

(1) Determine the amount of employer contributions that would have been made in the current fiscal year if the applicable Public Employees' Retirement System employee contribution rate in effect

immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the current fiscal year.

(2) Determine the actual amount of employer contributions made to the Public Employees' Retirement System in the current fiscal year.

(3) If the amount determined in paragraph (1) is greater than the amount determined in paragraph (2), the total revenue limit computed pursuant to this part for that county superintendent of schools shall be decreased by the amount of the difference between those paragraphs; or if the amount determined in paragraph (1) is less than the amount determined in paragraph (2), the total revenue limit for that county superintendent of schools shall be increased by the amount of the difference between those paragraphs.

(4) For the purposes of this subdivision, employer contributions to the Public Employees' Retirement System for any of the following positions shall be excluded from the calculation specified above:

(A) Positions or portions of positions supported by federal funds that are subject to supplanting restrictions.

(B) Positions supported by funds received pursuant to Section 42243.6.

(C) Positions supported, to the extent of employers contributions not exceeding twenty-five thousand dollars ($25,000) by any single educational agency, from a non-General Fund revenue source determined to be properly excludable from this subdivision by the Superintendent of Public Instruction with the approval of the Director of Finance.

(5) For accounting purposes, any reduction to county office of education revenue limits made by this subdivision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

(6) The amount of the increase or decrease to the revenue limits of county superintendents of schools made by this subdivision for the 1995–96 fiscal year shall not be adjusted by the deficit factor calculated pursuant to Section 2558.45 for that fiscal year.

(c) The Superintendent of Public Instruction shall also subtract from the amount determined in subdivision (a) the sum of: (1) local property tax revenues received pursuant to Section 2573 in the then current fiscal year, and tax revenues received pursuant to Section 2556 in the then current fiscal year, (2) state and federal categorical aid for the fiscal year, (3) district contributions pursuant to Section 52321 for the fiscal year, and other applicable local contributions and revenues, (4) any amounts that the county superintendent of schools was required to maintain as restricted and not available for expenditure in the 1978–79 fiscal year as specified in the second paragraph of subdivision (c) of Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 51 of the Statutes of 1979, and (5) the amount received pursuant to subparagraph (C) of paragraph (3) of subdivision (a) of Section 33607.5 of the Health and Safety Code that is considered property taxes pursuant to that

section.

(d) The remainder computed in subdivision (c) shall be distributed in the same manner as state aid to school districts from funds appropriated to Section A of the State School Fund.

(e) If the remainder determined pursuant to subdivision (c) is a negative amount, no state aid shall be distributed to that county superintendent of schools pursuant to subdivision (d), and an amount of funds of that county superintendent equal to that negative amount shall be deemed restricted and not available for expenditure during the current fiscal year. In the next fiscal year, that amount shall be considered local property tax revenue for purposes of the operation of paragraph (1) of subdivision (c) of this section.

SEC. 2. Section 56712 of the Education Code is amended to read:

56712. From the sum computed pursuant to Section 56711, the county superintendent shall subtract all the following:

(a) Applicable special education federal funds received by each district or county office.

(b) For the 1981–82 fiscal year only, an amount equal to the difference, if positive, between the sum of state aid received pursuant to this chapter, local general fund contribution, federal funds, and district revenue limits for special day classes and centers, and county taxes for special education for the prior fiscal year, and the amount actually spent on special education programs and services pursuant to this part, for the prior fiscal year.

(c) The property taxes allocated to special education programs pursuant to Section 2572.

(d) The district revenue limit amounts for pupils in special day classes and centers in each district or county office.

(e) The local general fund contribution for special education computed pursuant to Article 6 (commencing with Section 56750).

(f) Any amounts allocated to school districts for special education programs pursuant to subdivision (b) of Section 56713.

(g) The amount received pursuant to subparagraph (D) of paragraph (3) of subdivision (a) of Section 33607.5 of the Health and Safety Code that is considered property taxes pursuant to that section.

SEC. 3. Section 42238 of the Education Code is amended to read:

42238. (a) For the 1984–85 fiscal year and each fiscal year thereafter, the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section.

(b) The base revenue limit for the current fiscal year shall be determined by adding to the base revenue limit for the prior fiscal year the following amounts:

(1) The inflation adjustment specified in Section 42238.1.

(2) For the 1985–86 and 1986–87 fiscal years only, the equalization adjustment specified in Section 42238.4.

(3) For the 1985–86 fiscal year, the amount received per unit of average daily attendance in the 1984–85 fiscal year pursuant to

Section 42238.7.

(4) For the 1985–86, 1986–87, and 1987–88 fiscal years, the amount per unit of average daily attendance received in the prior fiscal year pursuant to Section 42238.8.

(c) Except for districts subject to subdivision (d), the base revenue limit computed pursuant to subdivision (b) shall be multiplied by the district average daily attendance computed pursuant to Section 42238.5.

(d) For districts for which the number of units of average daily attendance determined pursuant to Section 42238.5 is greater for the current fiscal year than for the 1982–83 fiscal year, compute the following amount, in lieu of the amount computed pursuant to subdivision (c):

(1) Multiply the base revenue limit computed pursuant to subdivision (c) by the average daily attendance computed pursuant to Section 42238.5 for the 1982–83 fiscal year.

(2) Multiply the lesser of the amount in subdivision (c) or 1.05 times the statewide average base revenue limit per unit of average daily attendance for districts of similar type for the current fiscal year by the difference between the average daily attendance computed pursuant to Section 42238.5 for the current and 1982–83 fiscal years.

(3) Add the amounts in paragraphs (1) and (2).

(e) The base revenue limit per unit of average daily attendance shall be the lesser of the following amounts:

(1) The amount determined in subdivision (b).

(2) The amount computed pursuant to Section 42238 for the prior fiscal year divided by the prior fiscal year revenue limit average daily attendance times the sum of 1.0 and twice the percentage increase in revenue limits computed pursuant to Section 42238.1 for the current fiscal year.

(f) For districts electing to compute units of average daily attendance pursuant to paragraph (3) of subdivision (a) of Section 42238.5, the amount computed pursuant to Article 4 (commencing with Section 42280) shall be added to the amount computed in subdivision (c) or (d), as appropriate.

(g) For the 1984–85 fiscal year only, the county superintendent shall reduce the total revenue limit computed in this section by the amount of the decreased employer contributions to the Public Employees' Retirement System resulting from enactment of Chapter 330 of the Statutes of 1982, offset by any increase in those contributions, as of the 1983–84 fiscal year, resulting from subsequent changes in employer contribution rates.

The reduction shall be calculated as follows:

(1) Determine the amount of employer contributions that would have been made in the 1983–84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1983–84 fiscal year.

(2) Subtract from the amount determined in paragraph (1) the

greater of subparagraph (A) or (B):

(A) The amount of employer contributions that would have been made in the 1983–84 fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately after the enactment of Chapter 330 of the Statutes of 1982 were in effect during the 1983–84 fiscal year.

(B) The actual amount of employer contributions made to the Public Employees' Retirement System in the 1983–84 fiscal year.

(3) For purposes of this subdivision, employer contributions to the Public Employees' Retirement System for any of the following shall be excluded from the calculation specified above:

(A) Positions supported totally by federal funds that were subject to supplanting restrictions.

(B) Positions supported by funds received pursuant to Section 42243.6.

(C) Positions supported, to the extent of employer contributions not exceeding twenty-five thousand dollars ($25,000) by any single educational agency, from a revenue source determined on the basis of equity to be properly excludable from the provisions of this subdivision by the Superintendent of Public Instruction with the approval of the Director of Finance.

(4) For accounting purposes, the reduction made by this subdivision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

(h) The Superintendent of Public Instruction shall apportion to each school district the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior years taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code.

(7) The amount, if any, received pursuant to any provision of the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), except for any amount received pursuant to Section 33401 or 33676 of the Health and Safety Code that is used for land acquisition, facility construction, reconstruction, or remodeling, or deferred maintenance, except for any amount received pursuant to Section

33492.15, paragraph (3) of subdivision (a) of Section 33607.5, or Section 33607.7 of the Health and Safety Code that is allocated exclusively for educational facilities.

(i) This section shall become operative July 1, 1984.

SEC. 4. Section 33320.1 of the Health and Safety Code is amended to read:

33320.1. (a) "Project area" means, except as provided in Section 33320.2, 33320.3, 33320.4, or 33492.3, a predominantly urbanized area of a community which is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and which is selected by the planning commission pursuant to Section 33322.

(b) As used in this section, "predominantly urbanized" means that not less than 80 percent of the land in the project area:

(1) Has been or is developed for urban uses; or

(2) Is characterized by the condition described in paragraph (4) of subdivision (a) of Section 33031; or

(3) Is an integral part of one or more areas developed for urban uses which are surrounded or substantially surrounded by parcels which have been or are developed for urban uses. Parcels separated by only an improved right-of-way shall be deemed adjacent for the purpose of this subdivision.

(c) For the purposes of this section, a parcel of property as shown on the official maps of the county assessor is developed if that parcel is developed in a manner which is either consistent with zoning or is otherwise permitted under law.

(d) The requirement that a project be predominantly urbanized shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 1984, or to an area which is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 1984.

SEC. 5. Section 33328.5 of the Health and Safety Code is amended to read:

33328.5. (a) If a redevelopment agency proposes to use the equalized assessment roll for the year following the equalized assessment roll which the redevelopment agency advised it would use pursuant to Section 33328, the redevelopment agency shall, prior to the adoption of the redevelopment plan using that different equalized assessment roll, either notify the county officials, taxing agencies, and the State Board of Equalization of the change in the equalized assessment roll that it proposes to use for the allocation of taxes pursuant to Section 33670 or prepare a report containing the information specified in subdivisions (a), (b), (c), (d), (e), and (f) of Section 33328.

(b) Upon receipt of a notice pursuant to subdivision (a), the county officials charged with the responsibility of allocating taxes under Section 33670 and 33670.5 shall prepare and deliver to the redevelopment agency a report containing the information specified in subdivisions (a), (b), (c), (d), (e), and (f) of Section 33328. The

report shall be prepared and delivered within the time periods specified in Section 33328 for reports prepared pursuant to that section. If a redevelopment agency gives the notice specified in subdivision (a), the redevelopment plan specified in the notice shall not be adopted until the time period for delivery of the report has expired.

(c) At least 14 days prior to the public hearing on the redevelopment plan for which the redevelopment agency proposes to use a different equalized assessment roll, the redevelopment agency shall prepare and deliver to each taxing agency a supplementary report analyzing the effect of the use of the different equalized assessment roll which shall include those subjects required by subdivisions (b), (e), and (n) of Section 33352. In lieu of a supplementary report, a redevelopment agency may include in the report required to be prepared pursuant to Section 33352, the information required to be included in the supplementary report.

(d) A redevelopment agency shall not be required to prepare a subsequent preliminary report specified in Section 33344.5, unless the report prepared pursuant to subdivision (b) states that the total assessed value in the project area is less than the total assessed value in the project area contained in the original report prepared pursuant to Section 33328, in which case a new preliminary report shall be prepared.

(e) The use of a different assessment roll pursuant to this section shall meet the requirements of Section 16 of Article XVI of the California Constitution.

(f) This section shall only apply to redevelopment plans adopted on or after January 1, 1993. The Legislature finds and declares that the enactment of this section shall not be deemed to invalidate or limit the adoption of redevelopment plans pursuant to a different procedure prior to January 1, 1993.

SEC. 6. Section 33333.2 of the Health and Safety Code is amended to read:

33333.2. (a) A redevelopment plan containing the provisions set forth in Section 33670 shall contain all of the following limitations. A redevelopment plan that does not contain the provisions set forth in Section 33670 shall contain the limitations in paragraph (4):

(1) (A) A time limit on the establishing of loans, advances, and indebtedness to be paid with the proceeds of property taxes received pursuant to Section 33670 to finance in whole or in part the redevelopment project, which may not exceed 20 years from the adoption of the redevelopment plan, except by amendment of the redevelopment plan as authorized by subparagraph (B). This limit, however, shall not prevent agencies from incurring debt to be paid from the Low and Moderate Income Housing Fund or establishing more debt in order to fulfill the agency's housing obligations under Section 33413. The loans, advances, or indebtedness may be repaid over a period of time longer than this time limit as provided in this section. No loans, advances, or indebtedness to be repaid from the

allocation of taxes shall be established or incurred by the agency beyond this time limitation. This limit shall not prevent agencies from refinancing, refunding, or restructuring indebtedness after the time limit if the indebtedness is not increased and the time during which the indebtedness is to be repaid is not extended beyond the time limit to repay indebtedness required by this section.

(B) The time limitation established by subparagraph (A) may be extended only by amendment of the redevelopment plan after the agency finds, based on substantial evidence, that (i) significant blight remains within the project area; and (ii) this blight cannot be eliminated without the establishment of additional debt. However, this amended time limitation may not exceed 30 years from the effective date of the ordinance adopting the redevelopment plan.

(2) A time limit, not to exceed 30 years from the adoption of the redevelopment plan, on the effectiveness of the redevelopment plan. After the time limit on the effectiveness of the redevelopment plan, the agency shall have no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness and to enforce existing covenants or contracts, unless the agency has not completed its housing obligations pursuant to Section 33413, in which case the agency shall retain its authority to implement requirements under Section 33413, including its ability to incur and pay indebtedness for this purpose, and shall use this authority to complete these housing obligations as soon as is reasonably possible.

(3) A time limit, not to exceed 45 years from the adoption of the redevelopment plan, to repay indebtedness with the proceeds of property taxes received pursuant to Section 33670. After the time limit established pursuant to this paragraph, an agency may not receive property taxes pursuant to Section 33670.

(4) A time limit, not to exceed 12 years from the adoption of the redevelopment plan, for commencement of eminent domain proceedings to acquire property within the project area. This time limitation may be extended only by amendment of the redevelopment plan.

(b) If a redevelopment plan is amended to add territory, the amendment shall contain the time limits required by this section.

(c) This section shall apply only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) on or after January 1, 1994, and to amendments that add territory and that are adopted on or after January 1, 1994.

SEC. 7. Section 33333.4 of the Health and Safety Code is amended to read:

33333.4. (a) Every legislative body which adopted a final redevelopment plan prior to October 1, 1976, that contains the provisions set forth in Section 33670 but which does not contain all of the limitations required by Section 33333.2, shall adopt an ordinance on or before December 31, 1986, which contains all of the following:

(1) A limitation on the number of dollars of taxes which may be divided and allocated to the redevelopment agency pursuant to the plan, including any amendments to the plan. Taxes shall not be divided and shall not be allocated to the redevelopment agency beyond that limitation.

(2) A time limit on the establishing of loans, advances, and indebtedness to finance in whole, or in part, the redevelopment project. No loans, advances, or indebtedness to be repaid from the allocation of taxes shall be established or incurred by the agency beyond the time limitation.

(3) A time limit, not to exceed 12 years, for commencement of eminent domain proceedings to acquire property within the project area.

(b) The limitations established in the ordinance adopted pursuant to this section shall apply to the redevelopment plan as if the redevelopment plan had been amended to include those limitations. However, in adopting the ordinance, neither the legislative body nor the agency is required to comply with Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans.

(c) The limitations established in the ordinance adopted pursuant to this section shall not be applied to limit allocation of taxes to an agency to the extent required to eliminate project deficits created under subdivision (g) of Section 33334.6 in accordance with the plan adopted pursuant thereto for the purpose of eliminating the deficit. In the event of a conflict between these limitations and the obligations under Section 33334.6, the legislative body shall amend the ordinance adopted pursuant to this section to modify the limitations to the extent necessary to permit compliance with the plan adopted pursuant to subdivision (g) of Section 33334.6 and to allow full expenditure of moneys in the agency's Low and Moderate Income Housing Fund in accordance with Section 33334.3. The procedure for amending the ordinance pursuant to this subdivision shall be the same as for adopting the ordinance under subdivision (b).

(d) This section shall not be construed to allow the impairment of any obligation or indebtedness incurred by the legislative body or the agency pursuant to this part.

(e) In any litigation to challenge or attack any ordinance adopted pursuant to this section, the court shall sustain the actions of the legislative body and the agency unless the court finds those actions were arbitrary or capricious. The Legislature finds and declares that this is necessary because redevelopment agencies with project areas established prior to October 1, 1976, have incurred existing obligations and indebtedness and have adopted projects, programs, and activities with the authority to receive and pledge the entire allocation of taxes authorized by Section 33670 and that it is necessary to protect against the possible impairment of existing obligations and indebtedness and to allow the completion of adopted projects and

programs.

(f) The ordinance adopted by the legislative body in compliance with this section does not relieve any agency of its obligations under Section 33334.2, 33334.3, Article 9 (commencing with Section 33410), or any other requirement contained in this part.

(g) A redevelopment plan adopted on or after October 1, 1976, and prior to January 1, 1994, containing the provisions set forth in Section 33670, shall also contain:

(1) A limitation on the number of dollars of taxes that may be divided and allocated to the agency pursuant to the plan, including any amendments to the plan. Taxes shall not be divided and shall not be allocated to the agency beyond this limitation, except pursuant to amendment of the redevelopment plan.

(2) A time limit, not to exceed 12 years, for commencement of eminent domain proceedings to acquire property within the project area. This time limit may be extended only pursuant to amendment of the redevelopment plan.

SEC. 8. Section 33333.6 of the Health and Safety Code is amended to read:

33333.6. The limitations of this section shall apply to every redevelopment plan adopted on or before December 31, 1993.

(a) (1) The time limit on the establishing of loans, advances, and indebtedness adopted pursuant to paragraph (2) of subdivision (a) of Section 33333.2 or paragraph (2) of subdivision (a) of Section 33333.4 shall not exceed 20 years from the adoption of the redevelopment plan or January 1, 2004, whichever is later. This limit, however, shall not prevent agencies from incurring debt to be paid from the Low and Moderate Income Housing Fund or establishing more debt in order to fulfill the agency's housing obligations under Section 33413. This limit shall not prevent agencies from refinancing, refunding, or restructuring indebtedness after the time limit if the indebtedness is not increased and the time during which the indebtedness is to be repaid does not exceed the date on which the indebtedness would have been paid.

(2) The time limitation established by this subdivision may be extended, only by amendment of the redevelopment plan, after the agency finds, based on substantial evidence that: (A) significant blight remains within the project area; and (B) this blight cannot be eliminated without the establishment of additional debt. However, this amended time limitation may not exceed 10 years from the time limit established pursuant to this subdivision or the time limit on the effectiveness of the plan established pursuant to subdivision (b), whichever is earlier.

(b) The effectiveness of every redevelopment plan to which this section applies shall terminate at a date which shall not exceed 40 years from the adoption of the redevelopment plan or January 1, 2009, whichever is later. After the time limit on the effectiveness of the redevelopment plan, the agency shall have no authority to act pursuant to the redevelopment plan except to pay previously

incurred indebtedness and to enforce existing covenants, contracts, or other obligations.

(c) Except as provided in subdivisions (g) and (h), a redevelopment agency shall not pay indebtedness or receive property taxes pursuant to Section 33670 after 10 years from the termination of the effectiveness of the redevelopment plan pursuant to subdivision (b).

(d) (1) If plans which had different dates of adoption were merged on or before December 31, 1993, the time limitations required by this section shall be counted individually for each merged plan from the date of the adoption of each plan. If an amendment to a redevelopment plan added territory to the project area on or before December 31, 1993, the time limitations required by this section shall commence, with respect to the redevelopment plan, from the date of the adoption of the redevelopment plan, and, with respect to the added territory, from the date of the adoption of the amendment.

(2) If plans that had different dates of adoption are merged on or after January 1, 1994, the time limitations required by this section shall be counted individually for each merged plan from the date of the adoption of each plan.

(e) (1) Unless a redevelopment plan adopted prior to January 1, 1994, contains all of the limitations required by this section and each of these limitations does not exceed the applicable time limits established by this section, the legislative body, acting by ordinance on or before December 31, 1994, shall amend every redevelopment plan adopted prior to January 1, 1994, either to amend an existing time limit that exceeds the applicable time limit established by this section or to establish time limits that do not exceed the provisions of subdivision (a), (b), or (c).

(2) The limitations established in the ordinance adopted pursuant to this section shall apply to the redevelopment plan as if the redevelopment plan had been amended to include those limitations. However, in adopting the ordinance required by this section, neither the legislative body nor the agency is required to comply with Article 12 (commencing with Section 33450) or any other provision of this part relating to the amendment of redevelopment plans.

(f) (1) If a redevelopment plan adopted prior to January 1, 1994, contains one or more limitations required by this section, and the limitation does not exceed the applicable time limit required by this section, this section shall not be construed to require an amendment of this limitation.

(2) A redevelopment plan adopted prior to January 1, 1994, that has a limitation shorter than the terms provided in this section may be amended to extend the limitation, within the applicable time limit established by this section, pursuant to Section 33354.6. This amendment shall be subject to referendum as provided in Section 33450.

(g) The limitations established in the ordinance adopted pursuant

to this section shall not be applied to limit allocation of taxes to an agency to the extent required to eliminate project deficits created under subdivision (e) of Section 33320.5, subdivision (g) of Section 33334.6, or subdivision (d) of Section 33487, in accordance with the plan adopted pursuant thereto for the purpose of eliminating the deficits or to implement a replacement housing program pursuant to Section 33413. In the event of a conflict between these limitations and the obligations under Section 33334.6 or to implement a replacement housing program pursuant to Section 33413, the legislative body shall amend the ordinance adopted pursuant to this section to modify the limitations to the extent necessary to permit compliance with the plan adopted pursuant to subdivision (g) of Section 33334.6 and to allow full expenditure of moneys in the agency's Low and Moderate Income Housing Fund in accordance with Section 33334.3 or to permit implementation of the replacement housing program pursuant to Section 33413. The procedure for amending the ordinance pursuant to this subdivision shall be the same as for adopting the ordinance under subdivision (e).

(h) This section shall not be construed to affect the validity of any bond, indebtedness, or other obligation, including any mitigation agreement entered into pursuant to Section 33401, authorized by the legislative body, or the agency pursuant to this part, prior to January 1, 1994. Nor shall this section be construed to affect the right of an agency to receive property taxes, pursuant to Section 33670, to pay the indebtedness or other obligation.

(i) A redevelopment agency shall not pay indebtedness or receive property taxes pursuant to Section 33670, with respect to a redevelopment plan adopted prior to January 1, 1994, after the date identified in subdivision (c) or the date identified in the redevelopment plan, whichever is earlier, except as provided in paragraph (2) of subdivision (f) or in subdivision (h).

(j) The Legislature finds and declares that the amendments made to this section by the act that adds this subdivision are intended to add limitations to the law on and after January 1, 1994, and are not intended to change or express legislative intent with respect to the law prior to that date. It is not the intent of the Legislature to affect the merits of any litigation regarding the ability of a redevelopment agency to sell bonds for a term that exceeds the limit of a redevelopment plan pursuant to law that existed prior to January 1, 1994.

(k) If a redevelopment plan is amended to add territory, the amendment shall contain the time limits required by Section 33333.2.

SEC. 9. Section 33334.3 of the Health and Safety Code is amended to read:

33334.3. (a) The funds which are required by Section 33334.2 or 33334.6 to be used for the purposes of increasing and improving the community's supply of low- and moderate-income housing shall be held in a separate Low and Moderate Income Housing Fund until used.

(b) Any interest earned by the Low and Moderate Income Housing Fund and any repayments or other income to the agency for loans, advances, or grants, of any kind from the Low and Moderate Income Housing Fund, shall accrue to and be deposited in, the fund and may only be used in the manner prescribed for the Low and Moderate Income Housing Fund.

(c) The moneys in the Low and Moderate Income Housing Fund shall be used to increase, improve, and preserve the supply of low- and moderate-income housing within the territorial jurisdiction of the agency.

(d) It is the intent of the Legislature that the Low and Moderate Income Housing Fund be used to the maximum extent possible to defray the costs of production, improvement, and preservation of low- and moderate-income housing and that the amount of money spent for planning and general administrative activities associated with the development, improvement, and preservation of that housing not be disproportionate to the amount actually spent for the costs of production, improvement, or preservation of that housing. The agency shall determine annually that the planning and administrative expenses are necessary for the production, improvement, or preservation of low- and moderate-income housing.

(e) (1) Planning and general administrative costs which may be paid with moneys from the Low and Moderate Income Housing Fund are those expenses incurred by the agency which are directly related to the programs and activities authorized under subdivision (e) of Section 33334.2 and are limited to the following:

(A) Costs incurred for salaries, wages, and related costs of the agency's staff or for services provided through interagency agreements, and agreements with contractors, including usual indirect costs related thereto.

(B) Costs incurred by a nonprofit corporation which are not directly attributable to a specific project.

(2) Legal, architectural, and engineering costs and other salaries, wages, and costs directly related to the planning and execution of a specific project which are authorized under subdivision (e) of Section 33334.2 and which are incurred by a nonprofit housing sponsor are not planning and administrative costs for the purposes of this section, but are instead project costs.

(f) (1) The requirements of this subdivision apply to all new or substantially rehabilitated housing units developed or otherwise assisted, with moneys from the Low and Moderate Income Housing Fund, pursuant to an agreement approved by an agency on or after January 1, 1988. Except to the extent a longer period of time may be required by other provisions of law, the agency shall require that housing units subject to this subdivision shall remain available at affordable housing costs to persons and families of low or moderate income and very low income households for the longest feasible time, but for not less than the following periods of time, except as

provided in Section 33334.13:

(A) Fifteen years for rental units. However, the agency may replace rental units with equally affordable and comparable rental units in another location within the community if (A) the replacement units are available for occupancy prior to the displacement of any persons and families of low or moderate income residing in the units to be replaced and (B) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(B) Ten years for owner-occupied units. However, the agency may permit sales of owner-occupied units prior to the expiration of the 10-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program which protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program which establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency and deposited in the Low and Moderate Income Housing Fund.

(2) The agency shall require the recording in the office of the county recorder of covenants or restrictions implementing this subdivision for each parcel or unit of real property subject to this subdivision. Notwithstanding any other provision of law, the covenants or restrictions shall run with the land and shall be enforceable, against the original owner and successors in interest, by the agency or the community.

(g) "Housing," as used in this section, includes residential hotels, as defined in subdivision (k) of Section 37912. The definitions of "lower income households" and "very low income households" in Sections 50079.5 and 50105 shall apply to this section. "Longest feasible time," as used in this section, includes, but is not limited to, unlimited duration.

(h) "Increasing, improving, and preserving the community's supply of low- and moderate-income housing," as used in this section and in Section 33334.2, includes the preservation of rental housing units assisted by federal, state, or local government on the condition that units remain affordable to low- and moderate-income households, including very low income households, for a specified period of time, beyond the date the subsidies and use restrictions could be terminated and the assisted housing units converted to market rate rentals. In preserving these units the agency shall require the units remain affordable to persons and families of low- and moderate-income and very low income households for the longest feasible time. However, the agency may replace rental units with equally affordable and comparable rental units in another location within the community if (1) the replacement units in another location are available for occupancy prior to the displacement of any persons and families of low or moderate income

residing in the units to be replaced and (2) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(i) Agencies that have more than one project area may satisfy the requirements of Sections 33334.2 and 33334.6 and of this section by allocating, in any fiscal year, less than 20 percent in one project area, if the difference between the amount allocated and the 20 percent required is instead allocated, in that same fiscal year, to the Low and Moderate Income Housing Fund from tax increment revenues from other project areas. Prior to allocating funds pursuant to this subdivision, the agency shall make the finding required by subdivision (g) of Section 33334.2.

SEC. 10. Section 33334.12 of the Health and Safety Code is amended to read:

33334.12. (a) (1) Upon failure of the agency to expend or encumber excess surplus in the Low and Moderate Income Housing Fund within one year from the date the moneys become excess surplus, as defined in paragraph (1) of subdivision (g), the agency shall do either of the following:

(A) Disburse voluntarily its excess surplus to the county housing authority or to another public agency exercising housing development powers within the territorial jurisdiction of the agency in accordance with subdivision (b).

(B) Expend or encumber its excess surplus within two additional years.

(2) If an agency, after three years has elapsed from the date that the moneys become excess surplus, has not expended or encumbered its excess surplus, the agency shall be subject to sanctions pursuant to subdivision (e), until the agency has expended or encumbered its excess surplus plus an additional amount, equal to 50 percent of the amount of the excess surplus that remains at the end of the three-year period. The additional expenditure shall not be from the agency's Low and Moderate Income Housing Fund, but shall be used in a manner that meets all requirements for expenditures from that fund.

(b) The housing authority or other public agency to which the money is transferred shall utilize the moneys for the purposes of, and subject to the same restrictions that are applicable to, the redevelopment agency under this part, and for that purpose may exercise all of the powers of a housing authority under Part 2 (commencing with Section 34200) to an extent not inconsistent with these limitations.

(c) Notwithstanding Section 34209 or any other provision of law, for the purpose of accepting a transfer of, and using, moneys pursuant to this section, the housing authority of a county or other public agency may exercise its powers within the territorial jurisdiction of a city redevelopment agency located in that county.

(d) The amount of excess surplus that shall be transferred to the housing authority or other public agency because of a failure of the

redevelopment agency to expend or encumber excess surplus within one year shall be the amount of the excess surplus that is not so expended or encumbered. The housing authority or other public agency to which the moneys are transferred shall expend or encumber these moneys for authorized purposes not later than three years after the date these moneys were transferred from the Low and Moderate Income Housing Fund.

(e) (1) Until a time when the agency has expended or encumbered excess surplus moneys pursuant to subdivision (a), the agency shall be prohibited from encumbering any funds or expending any moneys derived from any source, except that the agency may encumber funds and expend moneys to pay the following obligations, if any, that were incurred by the agency prior to three years from the date the moneys became excess surplus:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by an agency, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640).

(B) Loans or moneys advanced to the agency, including, but not limited to, loans from federal, state, or local agencies, or a private entity.

(C) Contractual obligations which, if breached, could subject the agency to damages or other liabilities or remedies.

(D) Obligations incurred pursuant to Section 33445.

(E) Indebtedness incurred pursuant to Section 33334.2 or 33334.6.

(F) Obligations incurred pursuant to Section 33401.

(G) An amount, to be expended for the operation and administration of the agency, that may not exceed 75 percent of the amount spent for those purposes in the preceding fiscal year.

(2) This subdivision shall not be construed to prohibit the expenditure of excess surplus funds or other funds to meet the requirement in paragraph (2) of subdivision (a) that the agency spend or encumber excess surplus funds, plus an amount equal to 50 percent of excess surplus, prior to spending or encumbering funds for any other purpose.

(f) Nothing in this section shall be construed to limit any authority a redevelopment agency may have under other provisions of this part to contract with a housing authority for increasing or improving the community's supply of low- and moderate-income housing.

(g) For purposes of this section:

(1) "Excess surplus" means any unexpended and unencumbered amount in an agency's Low and Moderate Income Housing Fund that exceeds the greater of one million dollars ($1,000,000) or the aggregate amount deposited into the Low and Moderate Income Housing Fund pursuant to Sections 33334.2 and 33334.6 during the agency's preceding four fiscal years. The first fiscal year to be included in this computation is the 1989–90 fiscal year, and the first date on which an excess surplus may exist is July 1, 1994.

(2) Moneys shall be deemed encumbered if committed pursuant

to a legally enforceable contract or agreement for expenditure for purposes specified in Section 33334.2 or 33334.3.

(3) (A) For purposes of determining whether an excess surplus exists, it is the intent of the Legislature to give credit to agencies which convey land for less than fair market value, on which low- and moderate-income housing is built or is to be built if at least 49 percent of the units developed on the land are available at affordable housing cost to lower income households for at least the time specified in subdivision (e) of Section 33334.3, and otherwise comply with all of the provisions of this division applicable to expenditures of moneys from a low- and moderate-income housing fund established pursuant to Section 33334.3. Therefore, for the sole purpose of determining the amount, if any, of an excess surplus, an agency may make the following calculation: if an agency sells, leases, or grants land acquired with moneys from the Low and Moderate Income Housing Fund, established pursuant to Section 33334.3, for an amount which is below fair market value, and if at least 49 percent of the units constructed or rehabilitated on the land are affordable to lower income households, as defined in Section 50079.5, the difference between the fair market value of the land and the amount the agency receives may be subtracted from the amount of moneys in an agency's Low and Moderate Income Housing Fund.

(B) If taxes that otherwise would have been required to be deposited in the Low and Moderate Income Housing Fund are used as security for bonds or other indebtedness, the proceeds of the bonds or other indebtedness shall not be counted in determining whether an excess surplus exists. Instead, the calculation made pursuant to paragraph (1) shall be made as if the bonds or other indebtedness had not been sold or incurred, and the agency had deposited the taxes in the Low and Moderate Income Housing Fund in accordance with Section 33334.3.

(C) Nothing in this subdivision shall be construed to restrict the authority of an agency provided in any other provision of this part to expend funds from the Low and Moderate Income Housing Fund.

(h) Communities in which an agency has disbursed excess surplus funds pursuant to this section shall not disapprove a low- or moderate-income housing project funded in whole or in part by the excess surplus funds if the project is consistent with applicable building codes and the land use designation specified in any element of the general plan as it existed on the date the application was deemed complete. A local agency may require compliance with local development standards and policies appropriate to and consistent with meeting the quantified objectives relative to the development of housing, as required in housing elements of the community pursuant to subdivision (b) of Section 65583 of the Government Code.

(i) Notwithstanding subdivision (a), any agency that has funds that become excess surplus on July 1, 1994, shall have, pursuant to subdivision (a), until January 1, 1995, to decide to transfer the funds

to a housing authority or other public agency, or until January 1, 1997, to expend or encumber those funds, or face sanctions pursuant to subdivision (e).

SEC. 11. Section 33344.5 of the Health and Safety Code is amended to read:

33344.5. After receiving the report prepared pursuant to Section 33328, or after the time period for preparation of that report has passed, a redevelopment agency, which includes a provision for the division of taxes pursuant to Section 33670 in the redevelopment plan, shall prepare and send to each affected taxing entity, as defined in Section 33353.2, a preliminary report which shall contain all of the following:

(a) The reasons for the selection of the project area.

(b) A description of the physical and economic conditions existing in the project area.

(c) A description of the project area which is sufficiently detailed for a determination as to whether the project area is predominantly urbanized. The description shall include at least the following information, which shall be based upon the terms described and defined in Section 33320.1:

(1) The total number of acres within the project area.

(2) The total number of acres that is characterized by the condition described in paragraph (4) of subdivision (a) of Section 33031.

(3) The total number of acres that is an integral part of an area developed for urban uses.

(4) The percent of property within the project area that is predominantly urbanized.

(5) A map of the project area that identifies the property described in paragraphs (2) and (3) and the property not developed for an urban use.

(d) A preliminary assessment of the proposed method of financing the redevelopment of the project area, including an assessment of the economic feasibility of the project and the reasons for including a provision for the division of taxes pursuant to Section 33670 in the redevelopment plan.

(e) A description of the specific project or projects then proposed by the agency.

(f) A description of how the project or projects to be pursued by the agency in the project area will improve or alleviate the conditions described in subdivision (b).

SEC. 12. Section 33353.2 of the Health and Safety Code is amended to read:

33353.2. "Affected taxing entity" means any governmental taxing agency that levied a property tax on all or any portion of the property located in the proposed project area in the fiscal year prior to the fiscal year in which the report prepared pursuant to Section 33328 is issued.

SEC. 13. Section 33413 of the Health and Safety Code, as

amended by Section 24 of Chapter 942 of the Statutes of 1993, is amended to read:

33413. (a) Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project which is subject to a written agreement with the agency or where financial assistance has been provided by the agency, the agency shall, within four years of the destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units which have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing costs within the territorial jurisdiction of the agency. When dwelling units are destroyed or removed after September 1, 1989, 75 percent of the replacement dwelling units shall replace dwelling units available at affordable housing cost in the same income level of very low income households, lower income households, and persons and families of low and moderate income, as the persons displaced from those destroyed or removed units.

(b) (1) At least 30 percent of all new and substantially rehabilitated dwelling units developed by an agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 50 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(2) (A) (i) At least 15 percent of all new and substantially rehabilitated dwelling units developed within a project area under the jurisdiction of an agency by public or private entities or persons other than the agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 40 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to very low income households.

(ii) To satisfy the provisions of this paragraph, in whole or in part, the agency may cause, by regulation or agreement, to be available, at affordable housing costs, to persons and families of low or moderate income or to very low income households, as applicable, two units outside a project area for each unit that otherwise would have had to be available inside a project area.

(iii) As used in this paragraph and in paragraph (1), "substantially rehabilitated dwelling units" means substantially rehabilitated multifamily rented dwelling units with three or more units or substantially rehabilitated, with agency assistance, single-family dwelling units with one or two units.

(iv) As used in this paragraph and in paragraph (1), "substantial rehabilitation" means rehabilitation, the value of which constitutes

25 percent of the after rehabilitation value of the dwelling, inclusive of the land value.

(v) To satisfy the provisions of this paragraph, the agency may aggregate new or substantially rehabilitated dwelling units in one or more project areas, provided that the agency finds, based on substantial evidence, after a public hearing, that the aggregation will not cause or exacerbate racial, ethnic, or economic segregation.

(B) To satisfy the requirements of paragraph (1) and subparagraph (A), the agency may purchase, or otherwise acquire or cause by regulation or agreement the purchase or other acquisition of, long-term affordability covenants on multifamily units that restrict the cost of renting or purchasing those units that either: (i) are not presently available at affordable housing cost to persons and families of low or very low income households, as applicable; or (ii) are units that are presently available at affordable housing cost to this same group of persons or families, but are units that the agency finds, based upon substantial evidence, after a public hearing, cannot reasonably be expected to remain affordable to this same group of persons or families.

(C) To satisfy the requirements of paragraph (1) and subparagraph (A), the long-term affordability covenants purchased or otherwise acquired pursuant to subparagraph (B) shall be required to be maintained on dwelling units at affordable housing cost for not less than 30 years. Not more than 50 percent of the units made available pursuant to paragraph (1) and subparagraph (A) may be assisted through the purchase or acquisition of long-term affordability covenants pursuant to subparagraph (B). Not less than 50 percent of the units made available through the purchase or acquisition of long-term affordability covenants pursuant to subparagraph (B) shall be available at affordable housing cost to, and occupied by, very low income households.

(3) The requirements of this subdivision shall apply independently of the requirements of subdivision (a). The requirements of this subdivision shall apply, in the aggregate, to housing made available pursuant to paragraphs (1) and (2), respectively, and not to each individual case of rehabilitation, development, or construction of dwelling units, unless an agency determines otherwise.

(4) Each redevelopment agency, as part of the implementation plan required by Section 33490, shall adopt a plan to comply with the requirements of this subdivision for each project area. The plan shall be consistent with, and may be included within, the community's housing element. The plan shall be reviewed and, if necessary, amended at least every five years in conjunction with either the housing element cycle or the plan implementation cycle. The plan shall ensure that the requirements of this subdivision are met every 10 years. If the requirements of this subdivision are not met by the end of each 10-year period, the agency shall meet these goals on an annual basis until the requirements for the 10-year period are met.

If the agency has exceeded the requirements within the 10-year period, the agency may count the units that exceed the requirement in order to meet the requirements during the next 10-year period. The plan shall contain the contents required by paragraphs (2) and (3) of subdivision (a) of Section 33490.

(c) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, constructed, or price-restricted pursuant to subdivision (a) or (b) remain available at affordable housing cost to persons and families of low-income, moderate-income, and very low income households, respectively, for the longest feasible time, as determined by the agency, but for not less than the period of the land use controls established in the redevelopment plan, except for the following:

(1) A longer period of time may be required by other provisions of law.

(2) (A) The agency may permit sales of owner-occupied units prior to the expiration of the period of the land use controls established by the agency for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program which protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program that establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds, based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency, and deposited into the Low and Moderate Income Housing Fund. The agency shall, within three years from the date of sale of units under this subparagraph, expend funds to make affordable an equal number of units at the same income level as units sold under this subparagraph.

(B) If land on which those dwelling units are located is deleted from the project area, the agency shall continue to require that those units remain affordable as specified in this subdivision. The requirements of this subdivision shall be made enforceable in the same manner as provided in subdivision (f) of Section 33334.3.

(d) (1) This section applies only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) on or after January 1, 1976, and to areas which are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. In addition, subdivision (a) shall apply to any other redevelopment project with respect to dwelling units destroyed or removed from the low- and moderate-income housing market on or after January 1, 1996, irrespective of the date of adoption of a final redevelopment plan or an amendment to a final redevelopment plan adding areas to a project area. Additionally, any agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project of the agency for which the final redevelopment plan was adopted prior to January 1, 1976.

(2) An agency may, by resolution, elect to require that whenever dwelling units housing persons or families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall replace each dwelling unit with up to three replacement dwelling units pursuant to subdivision (a).

(e) Except as otherwise authorized by law, this section does not authorize an agency to operate a rental housing development beyond the period reasonably necessary to sell or lease the housing development.

(f) Notwithstanding subdivision (a), the agency may replace destroyed or removed dwelling units with a fewer number of replacement dwelling units if the replacement dwelling units meet both of the following criteria:

(1) The total number of bedrooms in the replacement dwelling units equals or exceeds the number of bedrooms in the destroyed or removed units. Destroyed or removed units having one or no bedroom are deemed for this purpose to have one bedroom.

(2) The replacement units are affordable to the same income level of households as the destroyed or removed units.

(g) "Longest feasible time," as used in this section, includes, but is not limited to, unlimited duration.

(h) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 13.5. Section 33413 of the Health and Safety Code, as added by Section 24.5 of Chapter 942 of the Statutes of 1993, is amended to read:

33413. (a) Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project which is subject to a written agreement with the agency or where financial assistance has been provided by the agency, the agency shall, within four years of the destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units which have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing cost within the territorial jurisdiction of the agency. When dwelling units are destroyed or removed after September 1, 1989, 75 percent of the replacement dwelling units shall replace dwelling units available at affordable housing cost in the same income level of very low income households, lower income households, and persons and families of low and moderate income, as the persons displaced from those destroyed or removed units.

(b) (1) At least 30 percent of all new or rehabilitated dwelling units developed by an agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than

50 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(2) At least 15 percent of all new or rehabilitated dwelling units developed within the project area by public or private entities or persons other than the agency shall be available at affordable housing cost to persons and families of low or moderate income. Not less than 40 percent of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to very low income households.

(3) The requirements of this subdivision shall apply independently of the requirements of subdivision (a) and in the aggregate to housing made available pursuant to paragraphs (1) and (2), respectively, and not to each individual case of rehabilitation, development, or construction of dwelling units.

(4) Each redevelopment agency, as part of the implementation plan required by Section 33490, shall adopt a plan to comply with the requirements of this subdivision for each project area. The plan shall be consistent with, and may be included within, the community's housing element. The plan shall be reviewed and, if necessary, amended at least every five years in conjunction with either the housing element cycle or the plan implementation cycle. The plan shall ensure that the requirements of this subdivision are met every 10 years. If the requirements of this subdivision are not met by the end of each 10-year period, the agency shall meet these goals on an annual basis until the requirements for the 10-year period are met. If the agency has exceeded the requirements within the 10-year period, the agency may count the units that exceed the requirement in order to meet the requirements during the next 10-year period. The plan shall contain the contents required by paragraphs (2) and (3) of subdivision (a) of Section 33490.

(c) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, or constructed pursuant to subdivision (a) or (b) remain available at affordable housing cost to persons and families of low-income, moderate-income, and very low income households, respectively, for the longest feasible time, as determined by the agency, but for not less than the period of the land use controls established in the redevelopment plan, except to the extent a longer period of time may be required by other provisions of law. If land on which those dwelling units are located is deleted from the project area, the agency shall continue to require that those units remain affordable as specified in the previous sentence. These requirements shall be made enforceable in the same manner as provided in subdivision (e) of Section 33334.3.

(d) (1) This section applies only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5

(commencing with Section 33360) on or after January 1, 1976, and to areas which are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. In addition, subdivision (a) shall apply to any other redevelopment project with respect to dwelling units destroyed or removed from the low- and moderate-income housing market on or after January 1, 1996, irrespective of the date of adoption of a final redevelopment plan or an amendment to a final redevelopment plan adding areas to a project area. Additionally, any agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project of the agency for which the final redevelopment plan was adopted prior to January 1, 1976.

(2) An agency may, by resolution, elect to require that whenever dwelling units housing persons or families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the agency shall replace each dwelling unit with up to three replacement dwelling units pursuant to subdivision (a).

(e) Except as otherwise authorized by law, this section does not authorize an agency to operate a rental housing development beyond the period reasonably necessary to sell or lease the housing development.

(f) Notwithstanding subdivision (a), the agency may replace destroyed or removed dwelling units with a fewer number of replacement dwelling units if the replacement dwelling units meet both of the following criteria:

(1) The total number of bedrooms in the replacement dwelling units equal or exceed the number of bedrooms in the destroyed or removed units. Destroyed or removed units having one or no bedroom are deemed for this purpose to have one bedroom.

(2) The replacement units are affordable to the same income level of households as the destroyed or removed units.

(g) "Longest feasible time," as used in this section, includes, but is not limited to, unlimited duration.

(h) Any dwelling units constructed, rehabilitated, or acquired prior to January 1, 1997, pursuant to provisions that were in effect at the time of the construction, rehabilitation, or acquisition may continue to be counted to meet the requirements of this section.

(i) This section shall become operative on January 1, 1997.

SEC. 14. Section 33433 of the Health and Safety Code is amended to read:

33433. (a) (1) Except as provided in subdivision (c), before any property of the agency acquired in whole or in part, directly or indirectly, with tax increment moneys is sold or leased for development pursuant to the redevelopment plan, the sale or lease shall first be approved by the legislative body by resolution after public hearing. Notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community at least once per week for at least two successive weeks, as specified in

Section 6066 of the Government Code, prior to the hearing.

(2) The agency shall make available, for public inspection and copying at a cost not to exceed the cost of duplication, a report no later than the time of publication of the first notice of the hearing mandated by this section. This report shall contain both of the following:

(A) A copy of the proposed sale or lease.

(B) A summary which describes and specifies all of the following:

(i) The cost of the agreement to the agency, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the agency, plus the expected interest on any loans or bonds to finance the agreements.

(ii) The estimated value of the interest to be conveyed or leased, determined at the highest and best uses permitted under the plan.

(iii) The estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants, and development costs required by the sale or lease. The purchase price or present value of the lease payments which the lessor will be required to make during the term of the lease. If the sale price or total rental amount is less than the fair market value of the interest to be conveyed or leased, determined at the highest and best use consistent with the redevelopment plan, then the agency shall provide as part of the summary an explanation of the reasons for the difference.

(iv) An explanation of why the sale or lease of the property will assist in the elimination of blight, with reference to all supporting facts and materials relied upon in making this explanation.

(v) The report shall be made available to the public no later than the time of publication of the first notice of the hearing mandated by this section.

(b) The resolution approving the lease or sale shall be adopted by a majority vote unless the legislative body has provided by ordinance for a two-thirds vote for that purpose and shall contain a finding that the sale or lease of the property will assist in the elimination of blight or provide housing for low- or moderate-income persons, and is consistent with the implementation plan adopted pursuant to Section 33490. The resolution shall also contain one of the following findings:

(1) The consideration is not less than the fair market value at its highest and best use in accordance with the plan.

(2) The consideration is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the sale or lease.

SEC. 15. Section 33445 of the Health and Safety Code is amended to read:

33445. (a) Notwithstanding Section 33440, an agency may, with the consent of the legislative body, pay all or a part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement which is publicly

owned either within or without the project area, if the legislative body determines all of the following:

(1) That the buildings, facilities, structures, or other improvements are of benefit to the project area or the immediate neighborhood in which the project is located, regardless of whether the improvement is within another project area, or in the case of a project area in which substantially all of the land is publicly owned that the improvement is of benefit to an adjacent project area of the agency.

(2) That no other reasonable means of financing the buildings, facilities, structures, or other improvements, are available to the community.

(3) That the payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements will assist in the elimination of one or more blighting conditions inside the project area or provide housing for low- or moderate-income persons, and is consistent with the implementation plan adopted pursuant to Section 33490.

(b) The determinations by the agency and the local legislative body pursuant to subdivision (a) shall be final and conclusive. For redevelopment plans, and amendments to those plans which add territory to a project, adopted after October 1, 1976, acquisition of property and installation or construction of each facility shall be provided for in the redevelopment plan. A redevelopment agency shall not pay for the normal maintenance or operations of buildings, facilities, structures, or other improvements which are publicly owned. Normal maintenance or operations do not include the construction, expansion, addition to, or reconstruction of, buildings, facilities, structures, or other improvements which are publicly owned otherwise undertaken pursuant to this section.

(c) When the value of the land or the cost of the installation and construction of the building, facility, structure, or other improvement, or both, has been, or will be, paid or provided for initially by the community or other public corporation, the agency may enter into a contract with the community or other public corporation under which it agrees to reimburse the community or other public corporation for all or part of the value of the land or all or part of the cost of the building, facility, structure, or other improvement, or both, by periodic payments over a period of years.

(d) The obligation of the agency under the contract shall constitute an indebtedness of the agency for the purpose of carrying out the redevelopment project for the project area, which indebtedness may be made payable out of taxes levied in the project area and allocated to the agency under subdivision (b) of Section 33670, or out of any other available funds.

(e) In a case where the land has been or will be acquired by, or the cost of the installation and construction of the building, facility, structure or other improvement has been paid by, a parking authority, joint powers entity, or other public corporation to provide

a building, facility, structure, or other improvement which has been or will be leased to the community, the contract may be made with, and the reimbursement may be made payable to, the community.

(f) With respect to the financing, acquisition, or construction of a transportation, collection, and distribution system and related peripheral parking facilities, in a county with a population of 4,000,000 persons or more, the agency shall, in order to exercise the powers granted by this section, enter into an agreement with the rapid transit district which includes the county, or a portion thereof, in which agreement the rapid transit district shall be given all of the following responsibilities:

(1) To participate with the other parties to the agreement to design, determine the location and extent of the necessary rights-of-way for, and construct, the transportation, collection, and distribution systems and related peripheral parking structures and facilities.

(2) To operate and maintain the transportation, collection, and distribution systems and related peripheral parking structures and facilities in accordance with the rapid transit district's outstanding agreements and the agreement required by this paragraph.

(g) (1) Notwithstanding any other authority granted in this section, an agency shall not pay for, either directly or indirectly, with tax increment funds the construction or rehabilitation of a building that is, or that will be used as, a city hall or county administration building.

(2) This subdivision shall not preclude an agency from making payments to construct, rehabilitate, or replace a city hall if an agency does any of the following:

(A) Allocates tax increment funds for this purpose during the 1988–89 fiscal year and each fiscal year thereafter in order to comply with federal and state seismic safety and accessibility standards.

(B) Uses tax increment funds for the purpose of rehabilitating or replacing a city hall that was seriously damaged during an earthquake that was declared by the President of the United States to be a natural disaster.

(C) Uses the proceeds of bonds, notes, certificates of participation, or other indebtedness that was issued prior to January 1, 1994, for the purpose of constructing or rehabilitating a city hall, as evidenced by documents approved at the time of the issuance of the indebtedness.

SEC. 16. Section 33452 of the Health and Safety Code is amended to read:

33452. (a) Notice of the hearing shall be published pursuant to Section 6063 of the Government Code prior to the date of hearing in a newspaper of general circulation, printed and published in the community, or, if there is none, in a newspaper selected by the agency. The notice of hearing shall include a legal description of the boundaries of the project area by reference to the description recorded with the county recorder pursuant to Section 33373 and of

the boundaries of the land proposed to be added to the project area, if any, and a general statement of the purpose of the amendment.

(b) Copies of the notices published pursuant to this section shall be mailed by first-class mail, to the last known assessee of each parcel of land not owned by the agency within the boundaries referred to in subdivision (a), at his or her last known address as shown on the last equalized assessment roll of the county; or where a city assesses, levies, and collects its own taxes, as shown on the last equalized assessment roll of the city; or to the owner of each parcel of land within these boundaries as the ownership is shown on the records of the county recorder 30 days prior to the date the notice is published, and to persons, firms, or corporations which have acquired property within these boundaries from the agency, at his or her last known address as shown by the records of the agency.

(c) (1) Copies of the notice published pursuant to this section shall be mailed, by first-class mail, to all residents and businesses within the project area designated in the redevelopment plan as proposed to be amended at least 30 days prior to the hearing.

(2) The mailed notice requirement of this subdivision shall only apply when mailing addresses to all individuals and businesses, or to all occupants, are obtained by the agency at a reasonable cost. The notice may be addresses to "occupant." If the agency acted in good faith to comply with the notice requirements of this subdivision, the failure of the agency to provide the required notice to residents or businesses unknown to the agency or whose addresses cannot be obtained at a reasonable cost, shall not, in and of itself, invalidate an amendment to a redevelopment plan.

(d) Copies of the notices published pursuant to this section shall also be mailed to the governing body of each of the taxing agencies that levies taxes upon any property in the project area designated in the redevelopment plan as proposed to be amended. Notices sent pursuant to this subdivision shall be mailed by certified mail with return receipt requested.

SEC. 17. Section 33490 of the Health and Safety Code is amended to read:

33490. (a) (1) (A) On or before December 31, 1994, and each five years thereafter, each agency that has adopted a redevelopment plan prior to December 31, 1993, shall adopt, after a public hearing, an implementation plan that shall contain the specific goals and objectives of the agency for the project area, the specific programs, including potential projects, and estimated expenditures proposed to be made during the next five years, and an explanation of how the goals and objectives, programs, and expenditures will eliminate blight within the project area and implement the requirements of Sections 33334.2, 33334.4, 33334.6, and 33413. After adoption of the first implementation plan, the parts of the implementation plan that address Sections 33334.2, 33334.4, 33334.6, and 33413 shall be adopted every five years either in conjunction with the housing element cycle or the implementation plan cycle. The agency may amend the

implementation plan after conducting a public hearing on the proposed amendment. If an action attacking the adoption, approval, or validity of a redevelopment plan adopted prior to January 1, 1994, has been brought pursuant to Chapter 5 (commencing with Section 33500), the first implementation plan required pursuant to this section shall be adopted within six months after a final judgment or order has been entered. Subsequent implementation plans required pursuant to this section shall be adopted pursuant to the terms of this section, and as if the first implementation plan had been adopted on or before December 31, 1994.

(B) Adoption of an implementation plan shall not constitute an approval of any specific program, project, or expenditure and shall not change the need to obtain any required approval of a specific program, project, or expenditure from the agency or community. The adoption of an implementation plan shall not constitute a project within the meaning of Section 21000 of the Public Resources Code. However, the inclusion of a specific program, potential project, or expenditure in an implementation plan prepared pursuant to subdivision (c) of Section 33352 in conjunction with a redevelopment plan adoption shall not eliminate analysis of those programs, potential projects, and expenditures in the environmental impact report prepared pursuant to subdivision (k) of Section 33352 to the extent that it would be otherwise required. In addition, the inclusion of programs, potential projects, and expenditures in an implementation plan shall not eliminate review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), at the time of the approval of the program, project, or expenditure, to the extent that it would be otherwise required.

(2) (A) A portion of the implementation plan shall address the agency housing responsibilities and shall contain a section addressing Sections 33334.2, 33334.4, and 33334.6, the Low and Moderate Income Housing Fund, and, if subdivision (b) of Section 33413 applies, a section addressing agency-developed and project area housing. The section addressing the Low and Moderate Income Housing Fund shall contain:

(i) The amount available in the Low and Moderate Income Housing Fund and the estimated amounts which will be deposited in the Low and Moderate Income Housing Fund during each of the next five years.

(ii) A housing program with estimates of the number of new, rehabilitated, or price-restricted units to be assisted during each of the five years and estimates of the expenditures of moneys from the Low and Moderate Income Housing Fund during each of the five years.

(B) For each project area to which subdivision (b) of Section 33413 applies, the section addressing the agency developed and project area housing shall contain:

(i) Estimates of the number of new, substantially rehabilitated or

price-restricted residential units to be developed or purchased within one or more project areas, both over the life of the plan and during the next 10 years.

(ii) Estimates of the number of units of very low, low-, and moderate-income households required to be developed within one or more project areas in order to meet the requirements of paragraph (2) of subdivision (b) of Section 33413, both over the life of the plan and during the next 10 years.

(iii) The number of units of very low, low-, and moderate-income households which have been developed within one or more project areas which meet the requirements of paragraph (2) of subdivision (b) of Section 33413.

(iv) Estimates of the number of agency developed residential units which will be developed during the next five years, if any, which will be governed by paragraph (1) of subdivision (b) of Section 33413.

(v) Estimates of the number of agency developed units for very low, low-, and moderate-income households which will be developed by the agency during the next five years to meet the requirements of paragraph (1) of subdivision (b) of Section 33413.

(3) If the implementation plan contains a project that will result in the destruction or removal of dwelling units that will have to be replaced pursuant to subdivision (a) of Section 33413, the implementation plan shall identify proposed locations suitable for those replacement dwelling units.

(b) For a project area for which a redevelopment plan is adopted on or after January 1, 1994, the implementation plan prepared pursuant to subdivision (c) of Section 33352 shall constitute the initial implementation plan and thereafter the agency after a public hearing shall adopt an implementation plan every five years commencing with the fifth year after the plan has been adopted. Agencies may adopt implementation plans that include more than one project area.

(c) Every agency, at least once within the five-year term of the plan, shall conduct a public hearing and hear testimony of all interested parties for the purpose of reviewing the redevelopment plan and the corresponding implementation plan for each redevelopment project within the jurisdiction and evaluating the progress of the redevelopment project. The hearing required by this subdivision shall take place no earlier than two years and no later than three years after the adoption of the implementation plan. An agency may hold one hearing for two or more project areas if those project areas are included within the same implementation plan.

(d) Notice of public hearings conducted pursuant to this section shall be published pursuant to Section 6063 of the Government Code and posted in at least four permanent places within the project area for a period of three weeks. Publication and posting shall be completed not less than 10 days prior to the date set for hearing.

SEC. 18. Section 33607.5 of the Health and Safety Code is

amended to read:

33607.5. (a) (1) This section shall apply to each redevelopment project area that, pursuant to a redevelopment plan which contains the provisions required by Section 33670 is either: (A) adopted on or after January 1, 1994, including later amendments to these redevelopment plans; or (B) adopted prior to January 1, 1994, but amended, after January 1, 1994, to include new territory. For plans amended after January 1, 1994, only the tax increments from territory added by the amendment shall be subject to this section. All the amounts calculated pursuant to this section shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 has been deducted from the total amount of tax increment funds received by the agency in the applicable fiscal year.

(2) The payments made pursuant to this section shall be in addition to any amounts the affected taxing entities receive pursuant to subdivision (a) of Section 33670. The payments made pursuant to this section to the affected taxing entities shall be allocated among the affected taxing entities in proportion to the percentage share of property taxes each affected taxing entity receives during the fiscal year the funds are allocated. The agency shall reduce its payments pursuant to this section to an affected taxing entity by any amount the agency has paid, directly or indirectly, pursuant to Section 33445, 33445.5, 33445.6, 33446, or any other provision of law other than this section for, or in connection with, a public facility owned or leased by that affected taxing agency, except: (A) any amounts the agency has paid directly or indirectly pursuant to an agreement with a taxing entity adopted prior to January 1, 1994; or (B) any amounts that are unrelated to the specific project area or amendment governed by this section.

(3) (A) Of the total amount paid each year pursuant to this section to school districts, 43.9 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 56.1 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities.

(B) Of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of Section 84751 of the Education Code, and 52.5 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities.

(C) Of the total amount paid each year pursuant to this section to county offices of education, 19.0 percent shall be considered to be property taxes for the purposes of Section 2558 of the Education Code, and 81.0 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities.

(D) Of the total amount paid each year pursuant to this section

for special education, 19.0 percent shall be considered to be property taxes for the purposes of Section 56712 of the Education Code, and 81.0 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for education facilities.

(4) Local education agencies that use funds received pursuant to this section for school facilities shall spend these funds at schools that are: (A) within the project area, (B) attended by students from the project area, (C) attended by students generated by projects that are assisted directly by the redevelopment agency, or (D) determined by the governing board of a local education agency to be of benefit to the project area.

(b) Commencing with the first fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, an amount equal to 25 percent of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. In addition, in any fiscal year in which the agency receives tax increments, the community that has adopted the redevelopment project area may elect to receive, and the agency shall pay to it, an amount equal to 25 percent of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted.

(c) Commencing with the 11th fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivision (b) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 21 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the first adjusted base year assessed value. The first adjusted base year assessed value is the assessed value of the project area in the 10th fiscal year in which the agency receives tax increment revenues.

(d) Commencing with the 31st fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivisions (b) and (c) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 14 percent of the portion of tax increments received by the agency, which shall be calculated by

applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments.

(e) (1) Prior to incurring any loans, bonds, or other indebtedness, except loans or advances from the community, the agency may subordinate to the loans, bonds or other indebtedness the amount required to be paid to an affected taxing entity by this section, provided that the affected taxing entity has approved these subordinations pursuant to this subdivision.

(2) At the time the agency requests an affected taxing entity to subordinate the amount to be paid to it, the agency shall provide the affected taxing entity with substantial evidence that sufficient funds will be available to pay both the debt service and the payments required by this section, when due.

(3) Within 45 days after receipt of the agency's request, the affected taxing entity shall approve or disapprove the request for subordination. An affected taxing entity may disapprove a request for subordination only if it finds, based upon substantial evidence, that the agency will not be able to pay the debt payments and the amount required to be paid to the affected taxing entity. If the affected taxing entity does not act within 45 days after receipt of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.

(f) (1) The Legislature finds and declares both of the following:

(A) The payments made pursuant to this section are necessary in order to alleviate the financial burden and detriment that affected taxing entities may incur as a result of the adoption of a redevelopment plan, and payments made pursuant to this section will benefit redevelopment project areas.

(B) The payments made pursuant to this section are the exclusive payments that are required to be made by a redevelopment agency to affected taxing entities during the term of a redevelopment plan.

(2) Notwithstanding any other provision of law, a redevelopment agency shall not be required, either directly or indirectly, as a measure to mitigate a significant environmental effect or as part of any settlement agreement or judgment brought in any action to contest the validity of a redevelopment plan pursuant to Section 33501, to make any other payments to affected taxing entities, or to pay for public facilities that will be owned or leased to an affected taxing entity.

(g) As used in this section, a "local education agency" is a school district, a community college district, or a county office of education.

SEC. 19. Section 33607.7 of the Health and Safety Code is amended to read:

33607.7. (a) This section shall apply to a redevelopment plan amendment for any redevelopment plans adopted prior to January 1, 1994, that increases the limitation on the number of dollars to be

allocated to the redevelopment agency or the time limit on the establishing of loans, advances, and indebtedness established pursuant to paragraphs (1) and (2) of subdivision (a) of Section 33333.6, or that lengthens the period during which the redevelopment plan is effective if the redevelopment plan being amended contains the provisions required by subdivision (b) of Section 33670. However, this section shall not apply to those redevelopment plans that add new territory.

(b) If a redevelopment agency adopts an amendment that is governed by the provisions of this section, it shall pay to each affected taxing entity either of the following:

(1) If an agreement exists that requires payments to the taxing entity, the amount required to be paid by an agreement between the agency and an affected taxing entity entered into prior to January 1, 1994.

(2) If an agreement does not exist, the amounts required pursuant to subdivisions (b), (c), (d), and (e) of Section 33607.5, until termination of the redevelopment plan, calculated against the amount of assessed value by which the current year assessed value exceeds an adjusted base year assessed value. The amounts shall be allocated between property taxes and educational facilities according to the appropriate formula in paragraph (3) of subdivision (a) of Section 33607.5. In determining the applicable amount under Section 33607.5, the first fiscal year shall be the first fiscal year following the fiscal year in which the adjusted base year value is determined.

(c) The adjusted base year assessed value shall be the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment. The agency shall commence making these payments pursuant to the terms of the agreement, if applicable, or, if an agreement does not exist, in the first fiscal year following the fiscal year in which the adjusted base year value is determined.

SEC. 20. Section 33676 of the Health and Safety Code is amended to read:

33676. (a) Prior to the adoption by the legislative body of a redevelopment plan providing for tax-increment financing pursuant to Section 33670, any affected taxing agency may elect to be allocated, and every school district and community college district shall be allocated, in addition to the portion of taxes allocated to the affected taxing agency pursuant to subdivision (a) of Section 33670, all or any portion of the tax revenues allocated to the agency pursuant to subdivision (b) of Section 33670 attributable to one or more of the following:

(1) Increases in the rate of tax imposed for the benefit of the taxing agency which levy occurs after the tax year in which the ordinance adopting the redevelopment plan becomes effective.

(2) If an agency pursuant to Section 33354.5 amends a redevelopment plan which does not utilize tax increment financing to add tax increment financing, and pursuant to subdivision (a) of Section 33670 uses the assessment roll last equalized prior to the effective date of the ordinance originally adopting the redevelopment plan, an affected taxing agency may elect to be allocated all or any portion of the tax revenues allocated to the agency pursuant to subdivision (b) of Section 33670 which the affected taxing agency would receive if the agency were to use the assessment roll last equalized prior to the effective date of the ordinance amending the redevelopment plan to add tax increment financing.

(b) (1) Any local education agency that is a basic aid district or office at the time the ordinance adopting a redevelopment plan is adopted and that receives no state funding, other than that provided pursuant to Section 6 of Article IX of the California Constitution, pursuant to Section 2558, 42238, or 84750, as appropriate, of the Education Code, shall receive annually its percentage share of the property taxes from the project area allocated among all of the affected taxing entities during the fiscal year the funds are allocated, increased by an amount equal to the lesser of the following:

(A) The percentage growth in assessed value that occurs throughout the district, excluding the portion of the district within the redevelopment project area.

(B) Eighty percent of the growth in assessed value that occurs within the portion of the district within the redevelopment project area.

(2) Subparagraphs (A) and (B) of paragraph (1) shall not apply to a redevelopment plan adopted by the legislative body of a community if both of the following occur:

(A) The median household income in the community in which the redevelopment project area is located is less than 80 percent of the median household income in the county in which the redevelopment project area is located.

(B) The preliminary plan for the redevelopment plan was adopted on or before September 1, 1993, and the redevelopment plan was adopted on or before August 1, 1994.

(3) Any local education agency that is a basic aid district or office at the time the ordinance amending a redevelopment plan is adopted pursuant to Section 33607.7 and that receives no state funding, other than that provided pursuant to Section 6 of Article IX of the California Constitution, pursuant to Section 2558, 42238, or 84751, as appropriate, of the Education Code, shall receive either of the following:

(A) If an agreement exists that requires payments to the basic aid district, the amount required to be paid by an agreement between the agency and the basic aid district entered into prior to January 1, 1994.

(B) If an agreement does not exist, the percentage share of the

increase in property taxes from the project area allocated among all of the affected taxing entities during the fiscal year the funds in the project area are allocated, derived from 80 percent of the growth in assessed value that occurs within the portion of the district within the redevelopment project area from the year in which the amendment takes effect pursuant to subdivision (c) of Section 33607.7.

(4) The redevelopment agency shall subtract from any payments made pursuant to this section the amount that a basic aid district receives pursuant to Sections 33607.5 and 33607.7 for the purposes of either paragraph (1) of subdivision (h) of Section 42238 of the Education Code or either Section 2558 or Section 84751 of the Education Code.

(c) The governing body of any affected taxing agency, other than a school district and a community college district, electing to receive allocation of taxes pursuant to this section in addition to taxes allocated to it pursuant to subdivision (a) of Section 33670 shall adopt a resolution to that effect and transmit the same, prior to the adoption of the redevelopment plan, to (1) the legislative body, (2) the agency, and (3) the official or officials performing the functions of levying and collecting taxes for the affected taxing agency. Upon receipt by the official or officials of the resolution, allocation of taxes pursuant to this section to the affected taxing agency which has elected to receive the allocation pursuant to this section by the adoption of the resolution and allocation of taxes pursuant to this section to every school district and community college district shall be made at the time or times allocations are made pursuant to subdivision (a) of Section 33670.

(d) An affected taxing agency, at any time after the adoption of the resolution, may elect not to receive all or any portion of the additional allocation of taxes pursuant to this section by rescinding the resolution or by amending the same, as the case may be, and giving notice thereof to the legislative body, the agency, and the official or officials performing the functions of levying and collecting taxes for the affected taxing agency. After receipt of a notice by the official or officials that an affected taxing agency has elected not to receive all or a portion of the additional allocation of taxes by rescission or amendment of the resolution, any allocation of taxes to the affected taxing agency required to be made pursuant to this section shall not thereafter be made but shall be allocated to the agency and the affected taxing agency shall thereafter be allocated only the portion of taxes provided for in subdivision (a) of Section 33670. After receipt of a notice by the official or officials that an affected taxing agency has elected to receive additional tax revenues attributable to only a portion of the increases in the rate of tax, only that portion of the tax revenues shall thereafter be allocated to the affected taxing agency in addition to the portion of taxes allocated pursuant to subdivision (a) of Section 33670, and the remaining portion thereof shall be allocated to the agency.

(e) As used in this section, "affected taxing agency" means and

includes every public agency for the benefit of which a tax is levied upon property in the project area, whether levied by the public agency or on its behalf by another public agency.

(f) This section shall apply only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) of Chapter 4 on or after January 1, 1977.

SEC. 21. Section 38 of Chapter 942 of the Statutes of 1993 is amended to read:

Sec. 38. (a) The Legislature finds and declares that the amendment of Section 33641 of the Health and Safety Code, and the repeal of Section 7202.6 of the Revenue and Taxation Code, as provided for in the Community Redevelopment Law Reform Act of 1993, shall not be deemed or construed to invalidate, impair, or otherwise affect the receipt of revenues by a redevelopment agency after January 1, 1994, under an ordinance adopted by a redevelopment agency prior to January 1, 1994, pursuant to either Section 33641 of the Health and Safety Code or Section 7202.6 of the Revenue and Taxation Code, as they existed prior to January 1, 1994, which are necessary to pay any of the following:

(1) The pledge of sales tax revenues made by a redevelopment agency pursuant to an enforceable agreement with an entity other than the community that was entered into prior to January 1, 1994.

(2) The refunding of bonds issued prior to January 1, 1994, pursuant to Section 33641 of the Health and Safety Code.

(3) The issuance of bonds on which the principal and interest are payable from taxes imposed by an ordinance adopted by a redevelopment agency pursuant to Section 7202.6 of the Revenue and Taxation Code prior to January 1, 1994, whether those bonds are issued prior to or after January 1, 1994, provided that the issuance of those bonds is pursuant to an enforceable agreement, effective prior to January 1, 1994, that contains a pledge of sales taxes or provisions for the use of sales taxes for project financing purposes.

(b) The Legislature further finds and declares that the amendment of Sections 33401 and 33676 of the Health and Safety Code, as provided for in the Community Redevelopment Law Reform Act of 1993, shall not be deemed or construed to invalidate, impair, or otherwise affect an agreement between a redevelopment agency and an affected taxing entity, entered into pursuant to either of those sections prior to January 1, 1994.

(c) The Legislature further finds and declares that the amendments to Section 33031 of the Health and Safety Code, and specifically the addition of paragraph (5) to subdivision (b) of that section, as made by this measure, are not intended to, and do not, expand the activities a community redevelopment agency may finance pursuant to the Community Redevelopment Law (Part 24 (commencing with Section 33000) of the Health and Safety Code).

SEC. 22. Section 21 of this act shall become operative on January 1, 1995.

SEC. 23. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide guidance and clarity to redevelopment agencies in complying with recent amendments to the Community Redevelopment Law, it is necessary that this act take effect immediately.

CHAPTER 937

An act to amend Sections 52053, 52056.6, and 52058 of, to add Section 52053.7 to, and to repeal and add Section 52052 of, the Education Code, relating to education.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 52052 of the Education Code is repealed.

SEC. 2. Section 52052 is added to the Education Code, to read:

52052. Commencing when two years of data are available for the statewide pupil assessment system, and each year thereafter, the Superintendent of Public Instruction shall identify a school as a focus school if either of the following criteria applies:

(a) For a school providing instruction in either grade 4 or 5 in any two of the prior three school years, the school ranks in the bottom 10 percent of schools statewide, ranks in the bottom 25 percent of schools in the same comparison group, as determined by the Superintendent of Public Instruction, and fails to meet the annual growth target for that criterion established by the Superintendent of Public Instruction.

(b) For a school providing instruction in grade 8 in any two of the prior three school years, the school ranks in the bottom 10 percent of schools statewide, ranks in the bottom 25 percent of schools in the same comparison group, as determined by the Superintendent of Public Instruction, and fails to meet the annual growth target for that criterion established by the Superintendent of Public Instruction. In addition, the school has a low state rank for the grade 8 dropout rate, as determined by the Superintendent of Public Instruction.

(c) For a school providing instruction in grade 10 in any two of the prior three school years, the school ranks in the bottom 10 percent of schools statewide, ranks in the bottom 25 percent of schools in the same comparison group, as determined by the Superintendent of Public Instruction, and fails to meet the annual growth target for that criterion established by the Superintendent of Public Instruction. Any school under this paragraph shall also satisfy one of the following

conditions:

(1) The school has a low state rank for the grade 10 dropout rate, as determined by the Superintendent of Public Instruction.

(2) The school has a low state rank for the percentage of pupils who complete the course prerequisites for admission to the University of California, as determined by the Superintendent of Public Instruction.

SEC. 3. Section 52053 of the Education Code is amended to read:

52053. (a) The Superintendent of Public Instruction shall identify each focus school in accordance with Section 52052.

(b) Each public school in the state shall be evaluated annually according to the criteria established in Section 52052.

(c) The Superintendent of Public Instruction shall notify the governing body and superintendent of each school district when one or more of the schools under their jurisdiction have been preliminarily identified as a focus school pursuant to Section 52052. The governing board of the school district shall have 30 calendar days after receipt of the notification to verify the identification of each school and to submit a written appeal to the Superintendent of Public Instruction. If the governing board does not appeal a preliminary identification within 30 calendar days after receipt of the notification, the Superintendent of Public Instruction shall formally identify the school as a focus school. Grounds for an appeal to the Superintendent of Public Instruction shall be limited to one or more of the following:

(1) Mistakes of fact regarding determinations as to whether criteria have been met for identifying the school as a focus school.

(2) Mistakes in the interpretation of the criteria.

(3) Mitigating factors that impact the ability of the school to meet the criteria, including, but not limited to, a high mobility rate for a significant percentage of pupils at the school.

(4) Mitigating factors that show that the criteria do not accurately reflect the level of achievement at the school. Those factors may include a demonstration that the majority of pupils in the grade used to identify the school as a focus school, who were tested in the school district within the school year prior to the year in which the school was identified as a focus school, are making significant individual progress toward the statewide performance standard.

(d) Within 15 working days after the receipt of an appeal by a school district, the Superintendent of Public Instruction shall respond in writing to the governing board of the school district stating his or her rationale for accepting or rejecting the appeal. If the Superintendent of Public Instruction accepts the appeal, the school shall not be formally identified as a focus school for that year. If the Superintendent of Public Instruction rejects the appeal, then the school shall be formally identified as a focus school by the Superintendent of Public Instruction, except as provided under subdivision (e).

(e) The governing board of each school district maintaining a

school that has been formally identified by the Superintendent of Public Instruction as being a focus school may request that the State Board of Education review the district's written appeal made pursuant to subdivision (c) and the Superintendent of Public Instruction's rationale for rejecting the appeal pursuant to subdivision (d). All requests made to the State Board of Education pursuant to this chapter shall be acted upon by the State Board of Education within three meetings after the date the request is received by the State Board of Education. If the State Board of Education accepts the appeal, the school shall not be formally identified as a focus school for that year. If the State Board of Education upholds the decision of the Superintendent of Public Instruction, the school shall be formally identified as a focus school for that year and shall be subject to this chapter immediately.

(f) The State Board of Education may appoint a committee to consider and make recommendations on requests filed pursuant to subdivision (e). The committee shall consist of governing board members, school administrators, and teachers. The State Board of Education may appoint one of its members as an ex-officio member of the committee. A committee member shall not participate in requests made by the school district in which he or she is employed or serves as a member of the governing board of that school district.

(g) For the purposes of this section, a "high mobility rate for a significant percentage of the pupils at the school" means that 30 percent or more of the pupil population at the school transfers in or out of the school within a school year.

(h) The Superintendent of Public Instruction shall define "significant individual progress toward the statewide performance standard" for purposes of this section, in accordance with the standards developed for pupil assessment pursuant to Section 60602.5.

SEC. 4. Section 52053.7 is added to the Education Code, to read:

52053.7. (a) The Legislature finds and declares that the purpose of this chapter is to assist schools that are identified as focus schools, and not to stigmatize those schools as low-performing.

(b) No school shall be publicly identified as a focus school until there is final resolution of all appeals made pursuant to this chapter.

(c) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the preliminary notice sent to a school regarding its identification as a focus school is not a public record.

SEC. 5. Section 52056.6 of the Education Code is amended to read:

52056.6. Notwithstanding any other provision of this chapter, any school that has been identified as a program improvement school pursuant to Section 1021 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary Improvement Amendments of 1988 (Public Law 100-297), has been designated as such a program improvement school for not less than two years, and is formally

identified under this chapter as a focus school shall be deemed, for purposes of this chapter, to have completed Phase I of the program and, accordingly, shall be evaluated by the Superintendent of Public Instruction under Section 52057.

SEC. 6. Section 52058 of the Education Code is amended to read:

52058. (a) As to any school placed in Phase II of the program, the following shall apply:

(1) If the school is not meeting the criteria established in Section 52052, but is making sufficient progress toward meeting those criteria, the governing board of the school district shall appoint an external review team of the school from a list of nominees provided by the Superintendent of Public Instruction. The review team shall make written recommendations to the governing board on methods to improve school achievement.

The governing board of the school district shall respond in writing to the recommendations of the review team in a public meeting of the governing board, and shall transmit a copy of the response to the Superintendent of Public Instruction. The local governing board's response shall include specific reasons if the board is not going to accept and implement a recommendation.

(2) If the school is not meeting the criteria established in Section 52052 and is not making sufficient progress toward meeting those criteria, the Superintendent of Public Instruction may enlist the services of an educational management consultant selected by the governing board of the school district from a list prepared by the Superintendent of Public Instruction. Individuals on the list shall be identified as having recent successful professional experience in the improvement of school achievement. The fee for the services of the educational management consultant shall be paid by the school district. An educational management consultant may be assigned, pursuant to this paragraph, to more than one focus school within the school district. Notwithstanding any other provision of this chapter, in schools that have a grade span including at least one grade lower than the grade tested by the statewide pupil assessment system, the results of pupils attending the school at least since one grade prior to testing shall be compared to the results of pupils in other schools within the school's comparison group who have also attended a school at least since one grade prior to testing. When the school's results for those pupils who have attended the school at least since one grade prior to testing exceed its comparison group's results, the school will remain in Phase I for an additional year, unless the Superintendent of Public Instruction determines that the need to improve the school outweighs the results of the testing.

(3) Subject to funding being provided in the Budget Act, the Superintendent of Public Instruction may award a one-time grant of up to fifty thousand dollars ($50,000) for each Phase II school, upon the superintendent's approval of an expenditure plan for the grant money.

(b) At the end of the second year of a school's operation under

Phase II of the program, the Superintendent of Public Instruction shall evaluate the school's progress toward meeting the criteria established in Section 52052. Based upon the evaluation, the Superintendent of Public Instruction shall take one of the following actions:

(1) If the school is meeting the criteria established in Section 52052, the governing board of the school district shall be notified by the Superintendent of Public Instruction that the school has met the intent of this chapter and is no longer subject to its provisions unless the school is identified again pursuant to Section 52053.

(2) If the school is not meeting the criteria established in Section 52052, but is making sufficient progress toward meeting those criteria, the school may be allowed to continue under Phase II for one or two additional years.

(3) If the school is not meeting the criteria established in Section 52052, and is not making sufficient progress toward meeting those criteria, the following shall apply:

(A) A school that was placed in Phase II pursuant to subdivision (b) of Section 52057 may be placed in Phase II pursuant to subdivision (c) of that section.

(B) A school that was placed in Phase II pursuant to subdivision (c) of Section 52057 may be allowed to continue under Phase II for one or two additional years.

(c) Any school district may appeal to the State Board of Education the placement of one of its schools in Phase II of the program by the Superintendent of Public Instruction. If the State Board of Education deems appropriate, the board may order, instead, that the school remain in Phase I of the program for a period of one or two additional years, at the conclusion of which the school shall be reevaluated pursuant to subdivision (b).

(d) The educational management consultant selected pursuant to paragraph (2) of subdivision (a) shall have the following responsibilities:

(1) Evaluate school improvement efforts and recommend changes to the governing board of the school district regarding community outreach, parent involvement, staff development needs, curriculum improvement, school climate, and program planning and budgeting for all funds available to the school. The educational management consultant shall also make recommendations regarding personnel at the school. Recommendations regarding personnel shall be processed in a confidential manner in conformance with the governing board's policies and state laws regarding the employment and dismissal of school district employees.

(2) Recommend to the governing board of the school district necessary changes in the management and personnel practices at the school, including recruitment, selection, and evaluation of school administrators, teachers, curriculum, and instruction.

(3) Organize assistance from resources within and outside of the school district, as necessary, to assist in school improvement.

(e) If the governing board of the school district refuses to implement one or more recommendations made by the educational management consultant pursuant to subdivision (d), and there is no agreement on alternatives that may achieve the same results, the consultant may seek the consent of the Superintendent of Public Instruction to implement those recommendations, notwithstanding the district's refusal. The educational management consultant and the governing board of the school district may submit written material to the Superintendent of Public Instruction for his or her consideration. If the Superintendent of Public Instruction agrees with the governing board, then the governing board shall not be required to implement the recommendation or recommendations of the educational management consultant. If the Superintendent of Public Instruction agrees with the recommendation or recommendations of the educational management consultant, the Superintendent of Public Instruction may require the governing board to implement one or more of the recommendations. The governing board of the school district may appeal to the State Board of Education any recommendation that the Superintendent of Public Instruction requires the governing board to implement pursuant to this subdivision. That appeal shall be on the sole basis that the implementation of the recommendation or recommendations would adversely affect the financial or educational stability of one or more other schools within the district.

(f) The educational management consultant shall remain with the school until the school meets the criteria established in Section 52052, or for a period of two years, whichever occurs first. The Superintendent of Public Instruction may remove an educational management consultant from a school if he or she determines that the school is making sufficient progress toward meeting the criteria, or that the school has not made sufficient progress toward meeting the criteria within a period of two years. The governing board may request at any time that the superintendent replace the educational management consultant if it determines that the school is not making sufficient progress toward meeting the criteria.

SEC. 7. It is the intent of the Legislature that funding be provided in future Budget Acts for the purposes of Sections 52053, 52054.5, 52056.5, subdivisions (a), (b), (e), and (f) of Section 52058, and Section 52059 of the Education Code. Grants shall be provided to school districts for the expenses incurred by the school districts pursuant to paragraph (2) of subdivision (a) of Section 52058 of the Education Code. The Superintendent of Public Instruction and the State Department of Education shall only be required to implement the provisions enumerated in this section in fiscal years in which sufficient funds have been appropriated for those purposes.

CHAPTER 938

An act to amend Sections 13353.1, 13353.2, 13353.3, 13353.4, 13353.45, 13353.5, 13353.8, 13557, 13558, 14601.5, 22651, 23136, 23137, 23139, 23140, 23157, and 23158.2 of, and to add Section 13352.4 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 13352.4 is added to the Vehicle Code, to read:

13352.4. (a) (1) The department shall require a person upon whom the court has imposed the condition of probation required by subdivision (b) of Section 23161 to submit proof of the satisfactory completion of a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code or of a program defined in Section 8001 of the Penal Code, within a time period set by the department, beginning from the date of a conviction or a finding by a court of a violation of Section 23152.

(2) The department shall require a person upon whom the court has imposed the condition of probation required by subdivision (b) of Section 23161 to submit proof of the satisfactory completion of the Navy Alcohol Drug Safety Action Program, within a time period set by the department, beginning from the date of a conviction by a court or a finding by a court of a violation of Section 23152.

(b) The department shall suspend the privilege to drive of any person who is not in compliance with subdivision (a).

(c) The department shall not restore the privilege to operate a motor vehicle after a suspension pursuant to subdivision (b) until the department receives proof of the completion of a program pursuant to subdivision (a) that the department finds satisfactory.

(d) This section shall become operative on January 1, 1995.

SEC. 2. Section 13353.1 of the Vehicle Code is amended to read:

13353.1. (a) If any person refuses an officer's request to submit to, or fails to complete, a preliminary alcohol screening test pursuant to Section 23137, upon receipt of the officer's sworn statement, submitted pursuant to Section 23158.2, that the officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23136, and that the person had refused to submit to, or did not complete, the test after being requested by the officer, the department shall do one of the following:

(1) Suspend the person's privilege to operate a motor vehicle for a period of one year.

(2) Revoke the person's privilege to operate a motor vehicle for

a period of two years if the refusal occurred within seven years of either of the following:

(A) A separate violation of subdivision (a) of Section 23136, which resulted in a finding of a violation, or a separate violation, which resulted in a conviction, of Section 23103, as specified in Section 23103.5, of Section 23140, 23152, or 23153, of Section 191.5 of the Penal Code, or of paragraph (3) of subdivision (c) of Section 192 of that code.

(B) A suspension or revocation of the person's privilege to operate a motor vehicle if that action was taken pursuant to this section or Section 13353 or 13353.2 for an offense that occurred on a separate occasion.

(3) Revoke the person's privilege to operate a motor vehicle for a period of three years if the refusal occurred within seven years of any of the following:

(A) Two or more separate violations of subdivision (a) of Section 23136, which resulted in findings of violations, or two or more separate violations, which resulted in convictions, of Section 23103, as specified in Section 23103.5, of Section 23140, 23152, or 23153, of Section 191.5 of the Penal Code, or of paragraph (3) of subdivision (c) of Section 192 of that code, or any combination thereof.

(B) Two or more suspensions or revocations of the person's privilege to operate a motor vehicle if those actions were taken pursuant to this section, or Section 13353 or 13353.2, for offenses that occurred on separate occasions.

(C) Any combination of two or more of the convictions or administrative suspensions or revocations described in subparagraphs (A) or (B).

(b) The notice of the order of suspension or revocation under this section shall be served on the person by the peace officer pursuant to Section 23137 and shall not become effective until 30 days after the person is served with that notice. The notice of the order of suspension or revocation shall be on a form provided by the department. If the notice of the order of suspension or revocation has not been served by the peace officer pursuant to Section 23137, the department immediately shall notify the person in writing of the action taken. The peace officer who serves the notice, or the department, if applicable, also shall provide, if the officer or department, as the case may be, determines that it is necessary to do so, the person with the appropriate non-English notice developed pursuant to subdivision (d) of Section 14100.

(c) Upon receipt of the officer's sworn statement, the department shall review the record. For purposes of this section, the scope of the administrative review shall cover all of the following issues:

(1) Whether the peace officer had reasonable cause to believe the person had been driving a motor vehicle in violation of Section 23136.

(2) Whether the person was lawfully detained.

(3) Whether the person refused to submit to, or did not complete, the test after being requested to do so by a peace officer.

(d) The person may request an administrative hearing pursuant to Section 13558. Except as provided in subdivision (e) of Section 13558, the request for an administrative hearing does not stay the order of suspension or revocation.

SEC. 3. Section 13353.2 of the Vehicle Code is amended to read:

13353.2. (a) The department shall immediately suspend the privilege of any person to operate a motor vehicle for any one of the following reasons:

(1) The person was driving a motor vehicle when the person had 0.08 percent or more, by weight, of alcohol in his or her blood.

(2) The person was under 21 years of age and had 0.05 percent or more, by weight, of alcohol in his or her blood.

(3) The person was under 21 years of age and had a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, or other chemical test.

(b) The notice of the order of suspension under this section shall be served on the person by a peace officer pursuant to Section 23137 or 23158.5. The notice of the order of suspension shall be on a form provided by the department. If the notice of the order of suspension has not been served upon the person by the peace officer pursuant to Section 23137 or 23158.5, upon the receipt of the report of a peace officer submitted pursuant to Section 23158.2, the department shall mail written notice of the order of the suspension to the person at the last known address shown on the department's records and, if the address of the person provided by the peace officer's report differs from the address of record, to that address.

(c) The notice of the order of suspension shall clearly specify the reason and statutory grounds for the suspension, the effective date of the suspension, the right of the person to request an administrative hearing, the procedure for requesting an administrative hearing, and the date by which a request for an administrative hearing shall be made in order to receive a determination prior to the effective date of the suspension.

(d) The department shall make a determination of the facts in subdivision (a) on the basis of the report of a peace officer submitted pursuant to Section 23158.2. The determination of the facts, after administrative review pursuant to Section 13557, by the department is final, unless an administrative hearing is held pursuant to Section 13558 and any judicial review of the administrative determination after the hearing pursuant to Section 13559 is final.

(e) The determination of the facts in subdivision (a) is a civil matter which is independent of the determination of the person's guilt or innocence, shall have no collateral estoppel effect on a subsequent criminal prosecution, and shall not preclude the litigation of the same or similar facts in the criminal proceeding. If a person is acquitted of criminal charges relating to a determination of facts under subdivision (a), or if the person's driver's license was suspended pursuant to Section 23137 and the department finds no basis for a suspension pursuant to that section, the department shall

immediately reinstate the person's privilege to operate a motor vehicle if the department has suspended it administratively pursuant to subdivision (a), and the department shall return or reissue for the remaining term any driver's license which has been taken from the person pursuant to Section 23158.5 or otherwise. Notwithstanding subdivision (b) of Section 13558, if criminal charges under Section 23140, 23152, or 23153 are not filed by the district attorney because of a lack of evidence, or if those charges are filed but are subsequently dismissed by the court because of an insufficiency of evidence, the person has a renewed right to request an administrative hearing before the department. The request for a hearing shall be made within one year from the date of arrest.

(f) The department shall furnish a form that requires a detailed explanation specifying which evidence was defective or lacking and detailing why that evidence was defective or lacking. The form shall be made available to the person to provide to the district attorney. The department shall hold an administrative hearing, and the hearing officer shall consider the reasons for the failure to prosecute given by the district attorney on the form provided by the department. If applicable, the hearing officer shall consider the reasons stated on the record by a judge who dismisses the charges. No fee shall be imposed pursuant to Section 14905 for the return or reissuing of a driver's license pursuant to this subdivision. The disposition of a suspension action under this section does not affect any action to suspend or revoke the person's privilege to operate a motor vehicle under any other provision of this code, including, but not limited to, Section 13352 or 13353, or Chapter 3 (commencing with Section 13800).

SEC. 4. Section 13353.3 of the Vehicle Code is amended to read:

13353.3. (a) An order of suspension of a person's privilege to operate a motor vehicle pursuant to Section 13353.2 shall become effective 30 days after the person is served with the notice pursuant to Section 23137 or 23158.5, or subdivision (b) of Section 13353.2.

(b) The period of suspension of a person's privilege to operate a motor vehicle under Section 13353.2 is as follows:

(1) Except as provided in Section 13353.6, if the person has not been convicted of a separate violation of Section 23103, as specified in Section 23103.5, of Section 23140, 23152, or 23153, of Section 191.5 of the Penal Code, or of paragraph (3) of subdivision (c) of Section 192 of that code, the person has not been administratively determined to have refused chemical testing pursuant to Section 13353 or 13353.1, or the person has not been administratively determined to have been driving with an excessive concentration of alcohol pursuant to Section 13353.2 on a separate occasion, which offense or occurrence occurred within seven years of the occasion in question, the person's privilege to operate a motor vehicle shall be suspended for four months.

(2) If the person has been convicted of one or more separate violations of Section 23103, as specified in Section 23103.5, of Section

23140, 23152, or 23153, of Section 191.5 of the Penal Code, or of paragraph (3) of subdivision (c) of Section 192 of that code, the person has been administratively determined to have refused chemical testing pursuant to Section 13353 or 13353.1, or the person has been administratively determined to have been driving with an excessive concentration of alcohol pursuant to Section 13353.2 on a separate occasion, which offense or occasion occurred within seven years of the occasion in question, the person's privilege to operate a motor vehicle shall be suspended for one year.

(3) Notwithstanding any other provision of law, if a person has been administratively determined to have been driving in violation of Section 23136 or to have refused chemical testing pursuant to Section 13353.1, the period of suspension shall not be for less than one year.

(c) If a person's privilege to operate a motor vehicle is suspended pursuant to Section 13353.2 and the person is convicted of a violation of Section 23140, 23152, or 23153, including a violation described in Section 23156, arising out of the same occurrence, both the suspension under Section 13353.2 and the suspension or revocation under Section 13352 shall be imposed, except that, notwithstanding Section 13354, the periods of suspension or revocation shall run concurrently, and the total period of suspension or revocation shall not exceed the longer of the two suspension or revocation periods. This subdivision shall not affect a suspension or revocation pursuant to Section 13353 for refusal to submit to chemical testing or the imposition of consecutive periods of suspension or revocation pursuant to Section 13354 for that refusal.

SEC. 5. Section 13353.4 of the Vehicle Code is amended to read:

13353.4. (a) Except as provided in subdivision (b) of Section 13353.6, or Section 13353.7 or 13353.8, the driving privilege shall not be restored, and no restricted or hardship permit to operate a motor vehicle shall be issued, to a person during the suspension or revocation period specified in Section 13353, 13353.1, or 13353.3.

(b) The privilege to operate a motor vehicle shall not be restored after a suspension or revocation pursuant to Section 13352, 13353, 13353.1, or 13353.2 until all applicable fees, including the fees prescribed in Section 14905, have been paid and the person gives proof of financial responsibility, as defined in Section 16430, to the department.

(c) The privilege to operate a motor vehicle shall not be restored after a suspension or revocation pursuant to paragraphs (1) to (7), inclusive, of subdivision (a) of Section 13352 until the person gives proof satisfactory to the department of completion of a program licensed pursuant to Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code. The program shall be of an appropriate length and scope, as determined by the number of prior convictions on that person's record for a violation of Section 23103, as specified in Section 23103.5, or of Section 23152 or 23153. The department shall restore the privilege to operate a

motor vehicle after a suspension or revocation pursuant to paragraphs (1) to (7), inclusive, of subdivision (a) of Section 13352 upon receipt of a certification, under penalty of perjury, by the director of a program specified in Section 8001 of the Penal Code that the person has completed the program specified in Section 8001 of the Penal Code.

(d) For purposes of this section, completion of a program is the satisfactory completion of all program requirements approved pursuant to program licensure, and any other court-imposed conditions, as evidenced by a certificate of completion issued by the licensed program.

(e) Subdivision (d) does not apply to a person under the age of 21 years whose driving privilege has been suspended or revoked pursuant to the order of a court or pursuant to Section 13353, 13353.1, or 13353.2 for a violation of subdivision (a) of Section 23136 or of Section 23140.

SEC. 6. Section 13353.45 of the Vehicle Code is amended to read:

13353.45. The department shall, in consultation with the State Department of Alcohol and Drug Programs, with representatives of the county alcohol program administrators, and with representatives of licensed drinking driver program providers, develop a certificate of completion for the purposes of Sections 13352.4 and 13353.4 and shall develop, implement, and maintain a system for safeguarding the certificates against misuse. The department may charge a reasonable fee for each blank completion certificate distributed to a drinking driver program. The fee shall be sufficient to cover, but shall not exceed, the costs incurred in administering this section, Section 13352.4, and subdivision (c) of Section 13353.4 or twelve dollars ($12) per person, whichever is less.

SEC. 7. Section 13353.5 of the Vehicle Code is amended to read:

13353.5. (a) Notwithstanding subdivision (c) or (d) of Section 13353.4, if a person whose driving privilege is suspended or revoked under Section 13352 or 13352.4 is a resident of another state at the time the mandatory period of suspension or revocation expires, the department may, upon written application of the person, terminate the suspension or revocation for the purpose of allowing the person to apply for a license in his or her state of residence. The application shall include, but not be limited to, evidence satisfactory to the department that the applicant now resides in another state.

(b) If the person submits an application for a California driving license within three years after the date of the action to terminate suspension or revocation pursuant to subdivision (a), a license shall not be issued until evidence satisfactory to the department establishes that the person is qualified for reinstatement and no grounds exist including, but not limited to, one or more subsequent convictions for driving under the influence of alcohol or other drugs, that would authorize the refusal to issue a license. The department may waive the three-year requirement upon receipt of a program completion certificate, as described in subdivision (c) of Section

13353.4, that has been duly issued to the individual.

SEC. 8. Section 13353.8 of the Vehicle Code is amended to read:

13353.8. (a) Notwithstanding any other provision of law, after the department has issued an order suspending or delaying driving privileges as a result of a violation of subdivision (a) of Section 23136, the department, upon petition of the person affected, may review the order and may impose restrictions on the person's privilege to drive based upon a showing of a critical need to drive.

(b) As used in this section, "critical need to drive" means the circumstances which are required to be shown for the issuance of a junior permit pursuant to Section 12513.

(c) The restriction shall remain in effect for the balance of the period of suspension or restriction in this section.

SEC. 9. Section 13557 of the Vehicle Code is amended to read:

13557. (a) The department shall review the determination made pursuant to Section 13353, 13353.1, or 13353.2 relating to any person who has received a notice of an order of suspension or revocation of the person's privilege to operate a motor vehicle pursuant to Section 13353, 13353.1, 13353.2, 23157, or 23158.5. The department shall consider the sworn report submitted by the peace officer pursuant to Section 23157 or 23158.2 and any other evidence accompanying the report.

(b) (1) If the department determines in the review of a determination made under Section 13353 or 13353.1, by a preponderance of the evidence, all of the following facts, the department shall sustain the order of suspension or revocation:

(A) That the peace officer had reasonable cause to believe that the person had been driving a motor vehicle in violation of Section 23136, 23140, 23152, or 23153.

(B) That the person was placed under arrest or, if the alleged violation was of Section 23136, that the person was lawfully detained.

(C) That the person refused or failed to complete the chemical test or tests after being requested by a peace officer.

(D) That, except for the persons described in Section 23157 who are incapable of refusing, the person had been told that his or her privilege to operate a motor vehicle would be suspended or revoked if he or she refused to submit to, and complete, the required testing.

If the department determines, by a preponderance of the evidence, that any of those facts were not proven, the department shall rescind the order of suspension or revocation and, provided the person is otherwise eligible, return or reissue the person's driver's license pursuant to Section 13551. The determination of the department upon administrative review is final unless a hearing is requested pursuant to Section 13558.

(2) If the department determines in the review of a determination made under Section 13353.2, by the preponderance of the evidence, all of the following facts, the department shall sustain the order of suspension or revocation, or if the person is under 21 years of age and does not yet have a driver's license, the department

shall delay issuance of that license for one year:

(A) That the peace officer had reasonable cause to believe that the person had been driving a motor vehicle in violation of Section 23136, 23140, 23152, or 23153.

(B) That the person was placed under arrest or, if the alleged violation was of Section 23136, that the person was lawfully detained.

(C) That the person was driving a motor vehicle under any of the following circumstances:

(i) When the person had 0.08 percent or more, by weight, of alcohol in his or her blood.

(ii) When the person was under the age of 21 years and had 0.05 percent or more, by weight, of alcohol in his or her blood.

(iii) When the person was under 21 years of age and had a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, or other chemical test.

If the department determines that any of those facts were not proven by the preponderance of the evidence, the department shall rescind the order of suspension or revocation and, provided that the person is otherwise eligible, return or reissue the person's driver's license pursuant to Section 13551. For persons under 21 years of age, the determination of the department pursuant to this paragraph is final unless a hearing is requested within 10 days of the determination, which hearing shall be conducted according to the provisions of Section 13558. For persons over 21 years of age, the determination of the department upon administrative review is final unless a hearing is requested pursuant to Section 13558.

(c) The department shall make the determination upon administrative review before the effective date of the order of suspension or revocation.

(d) The administrative review does not stay the suspension or revocation of a person's privilege to operate a motor vehicle. If the department is unable to make a determination on administrative review within the time limit in subdivision (c), the department shall stay the effective date of the order of suspension or revocation pending the determination and, if the person's driver's license has been taken by the peace officer pursuant to Section 23137, 23157, or 23158.5, the department shall notify the person before the expiration date of the temporary permit issued pursuant to Section 23137, 23157, or 23158.5, or the expiration date of any previous extension issued pursuant to this subdivision, in a form that permits the person to establish to any peace officer that his or her privilege to operate a motor vehicle is not suspended or revoked.

(e) A person may request and be granted a hearing pursuant to Section 13558 without first receiving the results of an administrative review pursuant to this section. After receiving a request for a hearing, the department is not required to conduct an administrative review of the same matter pursuant to this section.

(f) A determination of facts by the department under this section has no collateral estoppel effect on a subsequent criminal

prosecution and does not preclude litigation of those same facts in the criminal proceeding.

SEC. 10. Section 13558 of the Vehicle Code is amended to read:

13558. (a) Any person, who has received a notice of an order of suspension or revocation of the person's privilege to operate a motor vehicle pursuant to Section 13353, 13353.1, 13353.2, 23137, 23157, or 23158.5 or a notice pursuant to Section 13557, may request a hearing on the matter pursuant to Article 3 (commencing with Section 14100) of Chapter 3, except as otherwise provided in this section.

(b) If the person wishes to have a hearing before the effective date of the order of suspension or revocation, the request for a hearing shall be made within 10 days of the receipt of the notice of the order of suspension or revocation. The hearing shall be held at a place designated by the department as close as practicable to the place where the arrest occurred, unless the parties agree to a different location. Any evidence at the hearing shall not be limited to the evidence presented at an administrative review pursuant to Section 13557.

(c) (1) The only issues at the hearing on an order of suspension or revocation pursuant to Section 13353 or 13353.1 shall be those facts listed in paragraph (1) of subdivision (b) of Section 13557. Notwithstanding Section 14106, the period of suspension or revocation specified in Section 13353 or 13353.1 shall not be reduced and, notwithstanding Section 14105.5, the effective date of the order of suspension or revocation shall not be stayed pending review at a hearing pursuant to this section.

(2) The only issues at the hearing on an order of suspension pursuant to Section 13353.2 shall be those facts listed in paragraph (2) of subdivision (b) of Section 13557. Notwithstanding Section 14106, the period of suspension specified in Section 13353.3 shall not be reduced.

(d) The department shall hold the administrative hearing before the effective date of the order of suspension or revocation if the request for the hearing is postmarked or received by the department on or before 10 days after the person's receipt of the service of the notice of the order of suspension or revocation pursuant to Section 13353.2, 23137, 23157, or 23158.5.

(e) A request for an administrative hearing does not stay the suspension or revocation of a person's privilege to operate a motor vehicle. If the department does not conduct an administrative hearing and make a determination after an administrative hearing within the time limit in subdivision (d), the department shall stay the effective date of the order of suspension or revocation pending the determination and, if the person's driver's license has been taken by the peace officer pursuant to Section 23137, 23157, or 23158.5, the department shall notify the person before the expiration date of the temporary permit issued pursuant to Section 23137, 23157, or 23158.5, or the expiration date of any previous extension issued pursuant to this subdivision, provided the person is otherwise eligible, in a form

that permits the person to establish to any peace officer that his or her privilege to operate a motor vehicle is not suspended or revoked.

(f) The department shall give written notice of its determination pursuant to Section 14105. If the department determines, upon a hearing of the matter, to suspend or revoke the person's privilege to operate a motor vehicle, notwithstanding the term of any temporary permit issued pursuant to Section 23137, 23157, or 23158.5, the temporary permit shall be revoked and the suspension or revocation of the person's privilege to operate a motor vehicle shall become effective five days after notice is given. If the department sustains the order of suspension or revocation, the department shall include notice that the person has a right to review by the court pursuant to Section 13559.

(g) A determination of facts by the department upon a hearing pursuant to this section has no collateral estoppel effect on a subsequent criminal prosecution and does not preclude litigation of those same facts in the criminal proceeding.

SEC. 11. Section 14601.5 of the Vehicle Code is amended to read:

14601.5. (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked pursuant to Section 13353, 13353.1, or 13353.2 and that person has knowledge of the suspension or revocation.

(b) Except in full compliance with the restriction, no person shall drive a motor vehicle at any time when that person's driving privilege is restricted pursuant to Section 13353.6, 13353.7, or 13353.8 and that person has knowledge of the restriction.

(c) Knowledge of suspension, revocation, or restriction of the driving privilege shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(d) Any person convicted of a violation of this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not more than six months or by a fine of not less than three hundred dollars ($300) or more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(2) If the offense occurred within five years of a prior offense which resulted in a conviction for a violation of this section or Section 14601, 14601.1, or 14601.2, by imprisonment in the county jail for not less than 10 days or more than one year, and by a fine of not less than five hundred dollars ($500) or more than two thousand dollars ($2,000).

(e) The court, upon a showing of good cause, may waive the mandatory minimum imprisonment period required by paragraph (2) of subdivision (d). The court shall state its reasons for waiving that requirement on the record at the time of sentencing.

(f) In imposing the minimum fine required by subdivision (d), the court shall take into consideration the defendant's ability to pay the fine and may, in the interest of justice, and for reasons stated in

the record, reduce the amount of that minimum fine to less than the amount otherwise imposed.

(g) Nothing in this section prohibits a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle, that is owned or utilized by the person's employer, during the course of employment on private property that is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (d) of Section 12500.

(h) Nothing in this section prohibits a person with a suspended license from driving a motor vehicle when emergency medical service is needed immediately.

SEC. 12. Section 22651 of the Vehicle Code, as amended by Chapter 268 of the Statutes of 1994, is amended to read:

22651. Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway or any public lands and a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person or persons in charge of a vehicle upon a highway or any public lands are, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) (1) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is, by this code or

other law, required or permitted to take, and does take, the person into custody.

(2) When an officer serves a notice of an order of suspension or revocation of a driver's license pursuant to Section 23137.

(i) (1) When any vehicle, other than a rented vehicle, is found upon a highway or any public lands, or is removed pursuant to this code, and it is known to have been issued five or more notices of parking violation, to which the owner or person in control of the vehicle has not responded within 21 days of citation issuance or 10 days of a notice of delinquent parking violation to the agency responsible for processing notices of parking violation or the registered owner of the vehicle is known to have been issued five or more notices for failure to pay or failure to appear in court for traffic violations for which no certificate has been issued by the magistrate or clerk of the court hearing the case showing that the case has been adjudicated or concerning which the registered owner's record has not been cleared pursuant to Chapter 6 (commencing with Section 41500) of Division 17, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency all of the following:

(A) Evidence of his or her identity.

(B) An address within this state at which he or she can be located.

(C) Satisfactory evidence that all parking penalties due for the vehicle and any other vehicle registered to the registered owner of the impounded vehicle, and all traffic violations of the registered owner, have been cleared.

(2) The requirements in subparagraph (C) of paragraph (1) shall be fully enforced by the impounding law enforcement agency on and after the time that the Department of Motor Vehicles is able to provide access to the necessary records.

(3) A notice of parking violation issued for an unlawfully parked vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of furnishing satisfactory evidence that the full amount of parking penalties or bail has been deposited, that person may demand to be taken without unnecessary delay before a magistrate, for traffic offenses, or a hearing examiner, for parking offenses, within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded, or, at the discretion of the impounding law enforcement agency, a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(4) A vehicle shall be released to the legal owner, as defined in Section 370, if the legal owner does all of the following:

(A) Pays the cost of towing and storing the vehicle.

(B) Submits evidence of payment of fees as provided in Section 9561.

(C) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for purposes of disposition or sale. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which the registered owner is or may be entitled, as security for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for any local administrative charges imposed pursuant to Section 22850.5. The legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, on receipt thereof, full amount of the parking penalties for all notices of parking violations issued for the vehicle and for any local administrative charges imposed pursuant to Section 22850.5.

(5) The impounding agency that has a lien on the surplus that remains upon the sale of a vehicle to which a registered owner is entitled pursuant to paragraph (4) has a deficiency claim against the registered owner for the full amount of the parking penalties for all notices of parking violations issued for the vehicle and for any local administrative charges imposed pursuant to Section 22850.5, less the amount received from the sale of the vehicle.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway, or any portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and

have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

(o) (1) When any vehicle is found upon a highway, any public lands, or an offstreet parking facility with a registration expiration date in excess of one year before the date it is found on the highway, public lands, or the offstreet parking facility. However, if the vehicle is occupied, only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle. For purposes of this subdivision, the vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration and a currently valid driver's license to operate the vehicle.

(2) As used in this subdivision, "offstreet parking facility" means any offstreet facility held open for use by the public for parking vehicles and includes any publicly owned facilities for offstreet parking, and privately owned facilities for offstreet parking where no fee is charged for the privilege to park and which are held open for the common public use of retail customers.

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5 and there is no passenger in the vehicle who has a valid driver's license and authorization to operate the vehicle. Any vehicle so removed from the highway or any public lands, or from private property after having been on a highway or public lands, shall not be released to the registered owner or his or her agent, except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle and proof of current vehicle registration, or upon order of a court.

(q) Whenever any vehicle is parked for more than 24 hours on a portion of highway which is located within the boundaries of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, and signs, as required by Section 22658.2, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

(r) When any vehicle is illegally parked and blocks the movement of a legally parked vehicle.

(s) (1) When any vehicle, except highway maintenance or construction equipment, an authorized emergency vehicle, or a vehicle which is properly permitted or otherwise authorized by the Department of Transportation, is stopped, parked, or left standing for more than eight hours within a roadside rest area or viewpoint.

(2) For purposes of this subdivision, a roadside rest area or viewpoint is a publicly maintained vehicle parking area, adjacent to a highway, utilized for the convenient, safe stopping of a vehicle to enable motorists to rest or to view the scenery. If two or more roadside rest areas are located on opposite sides of the highway, or

upon the center divider, within seven miles of each other, then that combination of rest areas is considered to be the same rest area.

SEC. 13. Section 23136 of the Vehicle Code is amended to read:

23136. (a) Notwithstanding Sections 23152 and 23153, it is unlawful for a person under the age of 21 years who has a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test, to drive a vehicle. However, this section shall not be a bar to prosecution under Section 23152 or 23153 or any other provision of law.

(b) A person shall be found to be in violation of subdivision (a) if the person was, at the time of driving, under the age of 21 years, and the trier of fact finds that the person had consumed an alcoholic beverage and was driving a vehicle with a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test.

(c) (1) Any person under the age of 21 years who drives a motor vehicle is deemed to have given his or her consent to a preliminary alcohol screening test for the purpose of determining the presence of alcohol in the person, if lawfully detained for an alleged violation of subdivision (a).

(2) The testing shall be incidental to a lawful detention and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of subdivision (a).

(3) The person shall be told that his or her failure to submit to, or the failure to complete, a preliminary alcohol screening test as requested will result in the suspension or revocation of the person's privilege to operate a motor vehicle for a period of one year to three years, as provided in Section 13353.1.

SEC. 14. Section 23137 of the Vehicle Code is amended to read:

23137. (a) If a peace officer lawfully detains a person under 21 years of age who is driving a motor vehicle, and the officer has reasonable cause to believe that the person is in violation of Section 23136, the officer shall request that the person take a preliminary alcohol screening test to determine the presence of alcohol in the person, if a preliminary alcohol screening test device is immediately available.

(b) If the person refuses to take, or fails to complete, the preliminary alcohol screening test or if the person takes the preliminary alcohol screening test and that test reveals a blood-alcohol concentration of 0.01 percent or greater, the officer shall proceed as follows:

(1) The officer, acting on behalf of the department, shall serve the person with a notice of an order of suspension of the person's driving privilege.

(2) The officer shall take possession of any driver's license issued by this state which is held by the person. When the officer takes possession of a valid driver's license, the officer shall issue, on behalf of the department, a temporary driver's license. The temporary

driver's license shall be an endorsement on the notice of the order of suspension and shall be valid for 30 days from the date of issuance, or until receipt of the order of suspension from the department, whichever occurs first.

(3) The officer immediately shall forward a copy of the completed notice of order of suspension form, and any driver's license taken into possession under paragraph (2), with the report required by Section 23158.2, to the department. For purposes of this paragraph, "immediately" means on or before the end of the fifth ordinary business day after the notice of order of suspension was served.

(c) For the purposes of this section, a preliminary alcohol screening test device is an instrument designed and used to measure the presence of alcohol in a person based on a breath sample.

SEC. 15. Section 23139 of the Vehicle Code is amended to read:

23139. Any person whose license is suspended or delayed issuance pursuant to Section 23137 shall pay to the department, in addition to any other fees required for the reissuance, return, or issuance of a driver's license, one hundred dollars ($100) for the reissuance, return, or issuance of his or her driver's license.

SEC. 16. Section 23140 of the Vehicle Code is amended to read:

23140. (a) It is unlawful for a person under the age of 21 years who has 0.05 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

(b) A person may be found to be in violation of subdivision (a) if the person was, at the time of driving, under the age of 21 years and under the influence of, or affected by, an alcoholic beverage regardless of whether a chemical test was made to determine that person's blood-alcohol concentration and if the trier of fact finds that the person had consumed an alcoholic beverage and was driving a vehicle while having a concentration of 0.05 percent or more, by weight, of alcohol in his or her blood.

(c) Notwithstanding any provision of law to the contrary, upon a finding that a person has violated this section, the clerk of the court, or judge if there is no clerk, shall prepare within 10 days after the finding and immediately forward to the department an abstract of the record of the court in which the finding is made. That abstract shall be a public record and available for public inspection in the same manner as other records reported under Section 1803.

SEC. 17. Section 23157 of the Vehicle Code is amended to read:

23157. (a) (1) Any person who drives a motor vehicle is deemed to have given his or her consent to chemical testing of his or her blood, breath, or urine for the purpose of determining the alcoholic content of his or her blood, and to have given his or her consent to chemical testing of his or her blood or urine for the purpose of determining the drug content of his or her blood, if lawfully arrested for any offense allegedly committed in violation of Section 23140, 23152, or 23153. The testing shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation

of Section 23140, 23152, or 23153. The person shall be told that his or her failure to submit to, or the failure to complete, the required chemical testing will result in a fine, mandatory imprisonment if the person is convicted of a violation of Section 23152 or 23153, and (A) the suspension of the person's privilege to operate a motor vehicle for a period of one year, (B) the revocation of the person's privilege to operate a motor vehicle for a period of two years if the refusal occurs within seven years of a separate violation of Section 23103 as specified in Section 23103.5, or of Section 23140, 23152, or 23153, or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code which resulted in a conviction, or if the person's privilege to operate a motor vehicle has been suspended or revoked pursuant to Section 13353, 13353.1, or 13353.2 for an offense which occurred on a separate occasion, or (C) the revocation of the person's privilege to operate a motor vehicle for a period of three years if the refusal occurs within seven years of two or more separate violations of Section 23103 as specified in Section 23103.5, or of Section 23140, 23152, or 23153, or of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code, or any combination thereof, which resulted in convictions, or if the person's privilege to operate a motor vehicle has been suspended or revoked two or more times pursuant to Section 13353, 13353.1, or 13353.2 for offenses which occurred on separate occasions, or if there is any combination of those convictions or administrative suspensions or revocations.

(2) (A) If the person is lawfully arrested for driving under the influence of an alcoholic beverage, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing any chosen test, the person shall submit to the person's choice of the remaining tests or test, and the officer shall advise the person that the person has that choice.

(B) If the person is lawfully arrested for driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the person has the choice of whether the test shall be of his or her blood, breath, or urine, and the officer shall advise the person that he or she has that choice.

(C) A person who chooses to submit to a breath test may also be requested to submit to a blood or urine test if the officer has reasonable cause to believe that the person was driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug and if the officer has a clear indication that a blood or urine test will reveal evidence of the person being under the influence. The officer shall state in his or her report the facts upon which that belief and that clear indication are based. The person has the choice of submitting to and completing a blood or urine test, and the officer shall advise the person that he or she is required to submit to an additional test and that he or she may choose

a test of either blood or urine. If the person arrested either is incapable, or states that he or she is incapable, of completing either chosen test, the person shall submit to and complete the other remaining test.

(3) If the person is lawfully arrested for an offense allegedly committed in violation of Section 23140, 23152, or 23153, and, because of the need for medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of those tests which are available at the facility to which that person has been transported. In that case, the officer shall advise the person of those tests which are available at the medical facility and that the person's choice is limited to those tests which are available.

(4) The officer shall also advise the person that he or she does not have the right to have an attorney present before stating whether he or she will submit to a test or tests, before deciding which test or tests to take, or during administration of the test or tests chosen, and that, in the event of refusal to submit to a test or tests, the refusal may be used against him or her in a court of law.

(5) Any person who is unconscious or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn his or her consent and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests will result in the suspension or revocation of his or her privilege to operate a motor vehicle. Any person who is dead is deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer.

(b) Any person who is afflicted with hemophilia is exempt from the blood test required by this section.

(c) Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon is exempt from the blood test required by this section.

(d) A person lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle in violation of Section 23140, 23152, or 23153 may request the arresting officer to have a chemical test made of the arrested person's blood, breath, or urine for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

(e) If the person, who has been arrested for a violation of Section 23140, 23152, or 23153, refuses or fails to complete a chemical test or tests, or requests that a blood or urine test be taken, the peace officer, acting on behalf of the department, shall serve the notice of the order of suspension or revocation of the person's privilege to operate a motor vehicle personally on the arrested person. The notice shall be on a form provided by the department.

(f) If the peace officer serves the notice of the order of suspension

or revocation of the person's privilege to operate a motor vehicle, the peace officer shall take possession of any driver's license issued by this state which is held by the person. The temporary driver's license shall be an endorsement on the notice of the order of suspension and shall be valid for 30 days from the date of arrest.

(g) The peace officer shall immediately forward a copy of the completed notice of suspension or revocation form and any driver's license taken into possession under subdivision (f), with the report required by Section 23158.2, to the department. If the person submitted to a blood or urine test, the peace officer shall forward the results immediately to the appropriate forensic laboratory. The forensic laboratory shall forward the results of the chemical tests to the department within 15 calendar days of the date of the arrest.

(h) A preliminary alcohol screening test that indicates the presence or concentration of alcohol based on a breath sample in order to establish reasonable cause to believe the person was driving a vehicle in violation of Section 23140, 23152, or 23153 may be used only after the officer evaluates the totality of the circumstances, including the person's performance on the field sobriety tests and under both of the following conditions:

(1) If a person refuses to take field sobriety tests or is incapable of taking the tests, the preliminary alcohol screening test may be used as a further investigative tool, unless the person refuses to take the preliminary alcohol screening test.

(2) If the officer decides to use a preliminary alcohol screening test, the officer shall advise the person that he or she is requesting that person to take a preliminary alcohol screening test to assist the officer in determining if that person is under the influence of alcohol. The person's obligation to submit to a blood, breath, or urine test, as required by this section, for the purpose of determining the alcohol or drug content of that person's blood, is not satisfied by the person submitting to a preliminary alcohol screening test. The officer shall advise the person of that fact and of the person's right to refuse to take the preliminary alcohol screening test.

SEC. 18. Section 23158.2 of the Vehicle Code is amended to read:

23158.2. (a) If a peace officer serves a notice of an order of suspension pursuant to Section 23137, or arrests any person for a violation of Section 23140, 23152, or 23153, the peace officer shall immediately forward to the department a sworn report of all information relevant to the enforcement action, including information which adequately identifies the person, a statement of the officer's grounds for belief that the person violated Section 23136, 23140, 23152, or 23153, a report of the results of any chemical tests which were conducted on the person or the circumstances constituting a refusal to submit to or complete the chemical testing pursuant to Section 23137 or 23157, a copy of any notice to appear under which the person was released from custody, and, if immediately available, a copy of the complaint filed with the court. For purposes of this section and subdivision (g) of Section 23157,

"immediately" means on or before the end of the fifth ordinary business day following the arrest, except that with respect to Section 23137 only, "immediately" has the same meaning as defined in paragraph (3) of subdivision (b) of Section 23137.

(b) The peace officer's sworn report shall be made on forms furnished or approved by the department.

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 20. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify specified provisions of the Vehicle Code at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 939

An act to amend Sections 8855.7, 25307, 25515.1, 25515.2, 25538, 25845, 27005, 29088, 29851, 29853, 61765, and 65859 of the Government Code, to amend Sections 33215, 33216, and 50459 of the Health and Safety Code, to amend Section 1463.001 of the Penal Code, to amend Sections 2714 and 9314 of the Public Resources Code, to amend Section 99243 of, to add Section 15961.5 to, and to add and repeal Section 15978 of, the Public Utilities Code, to amend Section 2151 of the Streets and Highways Code, and to amend Sections 30514 and 50658 of, and to add Sections 30516 and 50707 to, the Water Code, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. This act shall be known and may be cited as the Local Government Omnibus Act of 1994. The Legislature finds and declares that Californians desire their governments to be run efficiently and economically and that public officials should avoid waste and duplication whenever possible. The Legislature further

finds and declares that it desires to reduce its own operating costs by reducing the number of separate bills affecting related topics.

Therefore, in enacting this act, it is the intent of the Legislature to combine several minor, noncontroversial statutory changes relating to public agencies into a single measure.

SEC. 2. Section 8855.7 of the Government Code is amended to read:

8855.7. (a) The reports required by Section 8855.5 shall also contain an analysis by the reporting agency of compliance with the targeting requirements of subsection (d) of Section 142 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 142) with respect to any issue of its bonds subject to those requirements for the federal tax exemption under Section 103 of the Internal Revenue Code of 1986 (26 U.S.C. Sec. 103). The analysis shall identify the numbers of rental units subject to this reporting requirement by categories based on the number of bedrooms per unit, and shall report as to each of these categories.

(b) No public agency or nonprofit corporation subject to the reporting requirements of Section 8855.5 may issue any bonds, including bonds to refund previously issued bonds, subject to the reporting requirements of that section until the Treasurer certifies that the public agency or nonprofit corporation has filed the information required by Section 8855.5 and this section with the California Debt Advisory Commission.

SEC. 3. Section 25307 of the Government Code is amended to read:

25307. All meetings conducted by the board pertaining to salaries of county employees shall be open and public, except as provided in the Ralph M. Brown Act, Chapter 9 (commencing with Section 54950) of Part 1 of Division 2, including Section 54957.6.

SEC. 4. Section 25515.1 of the Government Code is amended to read:

25515.1. (a) After complying with Section 65402 and Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5, in managing its real property acquired prior to January 1, 1984, a county may do any of the following:

(1) Sell, lease for a term not to exceed 99 years, or lease with an option to purchase for a term not to exceed 99 years, any of its real property to any person, partnership, corporation, or governmental entity the governing body selects for purposes of cultural, residential, commercial, or industrial use or development, subject to periodic review by the county, upon the terms and conditions determined by the board of supervisors.

(2) Participate as a principal party in the development of cultural, residential, commercial, or industrial uses or development thereof as a public works project.

(3) Contract for the management, marketing, operation, or leasing of its real property for purposes of cultural, residential, commercial, or industrial use or development.

(b) Prior to entering into any agreement pursuant to subdivision (a), the board of supervisors shall determine that the sale, lease, lease with option to purchase, development, or other contract will result in economic benefits to the county. If the proposed agreement is a lease, the board of supervisors shall also make both of the following determinations:

(1) That the public benefit of the proposed lease agreement is expected to be greater than the public benefit which would result from the sale of the property.

(2) That a reasonable expectation exists that future public need justifies retention of the fee ownership of the property.

If the property to be used or developed is adjacent to, or a portion of, real property which is, or will be, used for other governmental activities, the board of supervisors shall also determine that the agreement will not interfere with the use or development of the remaining public property.

(c) In managing any of its property acquired after January 1, 1984, and after complying with Section 65402 and Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5, a county may sell, lease, lease with option to purchase, develop, or otherwise dispose of that property in the manner set forth in this section. This subdivision is not applicable to any county property acquired through eminent domain proceedings.

SEC. 5. Section 25515.2 of the Government Code is amended to read:

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

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

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

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

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

(2) Meets the residential, commercial, industrial, or cultural

development needs of the county.

(e) Notice inviting the bids shall be published in the same manner as set forth in subdivision (g).

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

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

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

SEC. 6. Section 25538 of the Government Code is amended to read:

25538. (a) In counties having a population of 1,000,000 or more, based on the most recent estimate by the demographic research unit of the Department of Finance, the board of supervisors may prescribe by ordinance a procedure alternative to that required by Sections 25520 to 25535, inclusive. The ordinance may designate a county officer or department head to sell any real property of an estimated value of twenty-five thousand dollars ($25,000) or less belonging to the county.

(b) Any alternative procedure shall require that the board of supervisors adopt and cause to be published pursuant to Section 6061.3, a resolution of its intention to sell the property. The resolution shall describe the property to be sold in an identifiable manner; specify the minimum price and the terms upon which it will be sold; the date on which it will be sold, which shall be not less than seven days following the completion of publication; fix the place at which sealed proposals to purchase will be received; and fix the time and place where the proposals will be opened and declared and oral bids received. In addition, the board may purchase advertising space and may advertise the proposed sale or lease of the property in any

newspapers, magazines, and other periodicals to publicize the sale or lease to those persons most likely to bid for, purchase, or lease the property.

(c) At the time and place fixed for the opening of bids the county officer or department head may accept the highest bid, written or oral, or, if he or she deems the action to be for the best public interest, he or she may reject any and all bids, either written or oral, and withdraw the property from sale. No oral bid shall be accepted unless it is made by a responsible person and exceeds by at least 5 percent the highest written proposal made by a responsible person.

(d) The alternative procedure may provide that in the event that no written or oral proposal is made which is equal to or greater than the minimum price fixed in the resolution, then for a period of one year following the date of the resolution, or until the board of supervisors revokes its authority, the county officer or department head shall have the authority to negotiate a sale, subject to final acceptance by the board of supervisors, of the real property to any person for not less than the minimum price fixed by the resolution. The alternative procedure may also provide that until the final acceptance occurs, the county officer or department head may lease the real property by direct negotiation on behalf of the county on a month-to-month tenancy, but in no event for more than 12 months, without first obtaining the approval of the board of supervisors.

SEC. 7. Section 25845 of the Government Code is amended to read:

25845. (a) The board of supervisors, by ordinance, may establish a procedure for the abatement of a nuisance. The ordinance shall, at a minimum, provide that the owner of the parcel, and anyone known to the board of supervisors to be in possession of the parcel, be given notice of the abatement proceeding and an opportunity to appear before the board of supervisors and be heard prior to the abatement of the nuisance by the county. However, nothing in this section prohibits the summary abatement of a nuisance upon order of the board of supervisors, or upon order of any other county officer authorized by law to summarily abate nuisances, if the board or officer determines that the nuisance constitutes an immediate threat to public health or safety.

(b) If the owner fails to pay the costs of the abatement upon demand by the county, the board of supervisors may order the cost of the abatement to be specially assessed against the parcel. The assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to the special assessment.

(c) If the board of supervisors specially assesses the cost of the abatement against the parcel, the board also may cause a notice of abatement lien to be recorded. The notice shall, at a minimum,

identify the record owner or possessor of property, set forth the last known address of the record owner or possessor, set forth the date upon which abatement of the nuisance was ordered by the board of supervisors and the date the abatement was complete, and include a description of the real property subject to the lien and the amount of the abatement cost.

(d) However, if the board of supervisors does not cause the recordation of a notice of abatement lien pursuant to subdivision (c), and any real property to which the costs of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or a lien on a bona fide encumbrancer for value has been created and attaches to that property, prior to the date on which the first installment of county taxes would become delinquent, then the cost of abatement shall not result in a lien against that real property but shall be transferred to the unsecured roll for collection.

(e) Recordation of a notice of abatement lien pursuant to subdivision (c) has the same effect as recordation of an abstract of a money judgment recorded pursuant to Article 2 (commencing with Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure. The lien created has the same priority as a judgment lien on real property and continues in effect until released. Upon order of the board of supervisors, or any county officer authorized by the board of supervisors to act on its behalf, an abatement lien created under this section may be released or subordinated in the same manner as a judgment lien on real property may be released or subordinated.

(f) The board of supervisors may delegate the hearing required by subdivision (a), prior to abatement of a public nuisance, to a hearing board designated by the board of supervisors. The hearing board shall make a written recommendation to the board of supervisors. The board of supervisors may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the board of supervisors.

(g) The board of supervisors may, by ordinance, delegate to a hearing officer appointed pursuant to Section 27720 the powers and duties specified by this section.

SEC. 8. Section 27005 of the Government Code is amended to read:

27005. The treasurer shall disburse the county money and all other money placed in his or her custody by official authority only on county warrants, checks, or electronic fund transfers issued by the county auditor, except for the making of legal investments.

SEC. 9. Section 29088 of the Government Code is amended to read:

29088. (a) After the conclusion of the hearing, and not later than August 30 of each year, and after making any revisions of, deductions from, or increases or additions to, the proposed budget it deems advisable during or after the public hearing, the board shall by resolution adopt the budget as finally determined. Increases or

additions shall not be made after the public hearing, unless the items were proposed in writing and filed with the clerk of the board before the close of the public hearing or unless approved by the board by four-fifths vote. The changes made pursuant to subdivision (b) of Section 29064 may be recorded as changes to the final budget.

(b) Whenever the state budget is enacted after July 1, the board may, by resolution, extend the date specified by subdivision (a) for a period not to exceed 60 days from the date of the enactment of the state budget or October 2, whichever is later, or 15 days beyond the date specified in Section 29080.

(c) The board may, by resolution, extend on a permanent basis or for a limited period the date specified by this section from August 30 to October 2.

SEC. 10. Section 29851 of the Government Code is amended to read:

29851. Upon the filing of the affidavit, the auditor shall issue and deliver to the legal owner or custodian a duplicate warrant for the full amount of the original warrant, or for any lesser amount still due if any portion of the amount for which the warrant was drawn has been paid, and the treasurer shall pay the duplicate in lieu of the original warrant. If a warrant is lost or destroyed after it has been received by a bank with whom the treasurer has entered into a written agreement pursuant to Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 for the deposit in that bank of moneys belonging to or in the custody of the treasurer, the treasurer may pay on a photocopy of the lost or destroyed warrant in lieu of the original warrant; provided the bank agrees to indemnify and hold the county harmless from any loss incurred by reason of that payment.

SEC. 11. Section 29853 of the Government Code is amended to read:

29853. A warrant is considered lost if it has been mailed and has not been received by the addressee within 20 days after the date of mailing or within a shorter period of time as the board of supervisors may by ordinance establish.

SEC. 12. Section 61765 of the Government Code is amended to read:

61765. (a) A district may fix, on or before the first day of August in each calendar year, a water or sewer standby or availability charge for either water or sewers not to exceed ten dollars ($10) per year for each acre of land, or ten dollars ($10) per year for each parcel of land of less than an acre within the district to which water or sewers are made available for any purpose by the district, whether the water or sewers are actually used or not.

(b) The board of directors of a district which fixes the charge may establish schedules varying the charges depending upon factors such as the uses to which the land is put, the cost of transporting the water to the land, the cost of transporting the sewage from the land, the amount of water used by the land, and the amount of sewage

discharged from the land. The board may restrict charges to lands lying within one or more improvement districts or zones within the community service district.

(c) Notwithstanding subdivision (a) or (b), a district may use the Uniform Standby Charge Procedures Act (Chapter 12.4 (commencing with Section 54985) of Part 1 of Division 2 of Title 5) to fix and levy standby and availability charges for water, sewer, or water and sewer services.

SEC. 13. Section 65859 of the Government Code is amended to read:

65859. (a) A city may, pursuant to this chapter, prezone unincorporated territory to determine the zoning that will apply to that territory upon annexation to the city.

The zoning shall become effective at the same time that the annexation becomes effective.

(b) Pursuant to Section 56375, those cities subject to that provision shall complete prezoning proceedings as required by law.

(c) If a city has not prezoned territory which is annexed, it may adopt an interim ordinance pursuant to Section 65858.

SEC. 14. Section 33215 of the Health and Safety Code is amended to read:

33215. (a) If all of the territory included within a project area, including any noncontiguous territory within the project area, selected pursuant to Section 33322 is subsequently annexed to a city or included within the boundaries of a new city, the territorial jurisdiction of the agency of the county over all of the territory in that project area may be transferred from the agency of the county to the agency of the city pursuant to this section.

(b) A city may initiate the transfer of territorial jurisdiction described in subdivision (a) if the city council agrees to reimburse the county for all costs incurred by the county in conducting the transfer and adopts, or has adopted, both of the following ordinances:

(1) An ordinance pursuant to Section 33101 declaring the need for an agency to function in the city.

(2) An ordinance adopting the same redevelopment plan for the project area that was previously adopted by the board of supervisors or an ordinance adopting that redevelopment plan, with amendments. However, no amendment to a redevelopment plan may be adopted if the amendment would violate any agreement entered into by the agency of the county or the board of supervisors, as determined by the board of supervisors, prior to the effective date of the transfer of territorial jurisdiction, as determined pursuant to subdivision (c).

(c) The effective date of the transfer of territorial jurisdiction is the first day of the fiscal year which begins following the effective date of the later enacted of the ordinances adopted pursuant to subdivision (b).

(d) The transfer of territorial jurisdiction shall have all of the following effects on and after the effective date of the transfer of

territorial jurisdiction, as determined pursuant to subdivision (c):

(1) The agency of the city and the city council shall have all of the rights, powers, and responsibilities provided by this part with respect to the project area and the redevelopment plan for that project area.

(2) The debts and any other obligations of the agency of the county or the board of supervisors in connection with the project area or the redevelopment plan for that project area shall be assumed by the agency of the city.

(3) For the purposes of this part, including Section 33670, the redevelopment plan for the project area for which territorial jurisdiction is transferred from the agency of the county to the agency of the city pursuant to this section shall be considered to have been adopted by the city council on the date the redevelopment plan was originally adopted by the board of supervisors.

(e) The agency of the county, the board of supervisors, the agency of the city, and the city council may enter into any agreements which those entities mutually determine to be necessary or desirable to facilitate the transfer of territorial jurisdiction provided for by this section.

SEC. 15. Section 33216 of the Health and Safety Code is amended to read:

33216. (a) If all, or a substantial portion, of the territory included within a project area selected pursuant to Section 33322 is subsequently annexed to a city or included within the boundaries of a new city, the territorial jurisdiction of the agency of the county over all, or a substantial portion, of the territory in that project area may be transferred from the agency of the county to the agency of the city pursuant to this section. If noncontiguous territory of a project area of an agency of a county is subsequently included within the boundaries of a new city, the jurisdiction of the noncontiguous territory may be transferred to the agency of the city pursuant to this section.

(b) The transfer of territorial jurisdiction described in subdivision (a) is not effective unless all of the following occur:

(1) The agency of the county and the agency of the city enter into the agreement described in subdivision (c) and the city council and the board of supervisors both adopt a resolution approving that agreement.

(2) The city council adopts, or has adopted, both of the following ordinances:

(A) An ordinance pursuant to Section 33101 declaring the need for an agency to function in the city.

(B) An ordinance adopting the same redevelopment plan for the project area that was previously adopted by the board of supervisors.

(c) The agreement required to be entered into between the agency of the county and the agency of the city pursuant to paragraph (1) of subdivision (b) shall contain all of the provisions described in paragraphs (1), (2), (3), and (4) and may contain the provisions described in paragraphs (5) and (6):

(1) A provision specifying that all of the territory included within the project area is transferred from the agency of the county to the agency of the city, or a provision specifying the portions of the project area over which each agency will have territorial jurisdiction.

(2) (A) If all of the territory included within the project area is transferred from the agency of the county to the agency of the city, a provision providing for the allocation of all of the taxes payable from the project area pursuant to subdivision (b) of Section 33670 to the agency of the city.

(B) If a substantial portion of the territory included within the project area is transferred from the agency of the county to the agency of the city, a provision providing for the allocation of taxes payable from the project area pursuant to subdivision (b) of Section 33760 between the agency of the city and the agency of the county. That allocation of taxes shall be reasonably related to the costs the agency of the county and the agency of the city expect to incur in carrying out the redevelopment plan and the outstanding indebtedness the agency of the county has incurred in carrying out the redevelopment plan. That allocation of taxes may differ from the allocation that would have been made if the portion of the project area under the territorial jurisdiction of the county and the portion of the project area under the territorial jurisdiction of the city had been separate project areas at the time of adoption of the redevelopment plan by the board of supervisors.

(3) A requirement that all taxes payable from the project area pursuant to subdivision (b) of Section 33670 which are allocated to the agency of the city, as required by subparagraph (B) of paragraph (2), shall be available if necessary to pay any indebtedness incurred by the agency of the county prior to the effective date of the transfer of jurisdiction in connection with the project area and the redevelopment plan if that indebtedness was secured by the taxes payable from the project area pursuant to subdivision (b) of Section 33670.

(4) If a substantial portion of the territory included within the project area is transferred from the agency of the county to the agency of the city, a requirement that any amendment to the redevelopment plan for that portion of the territory of the project area under the jurisdiction of the county proposed by the agency of the county shall, in addition to any other requirements under this part, be approved by an ordinance adopted by the city council and that any amendment to the redevelopment plan for that portion of the territory of the project area under the jurisdiction of the city proposed by the agency of the city shall, in addition to any other requirements under this part, be approved by an ordinance adopted by the board of supervisors.

(5) If a substantial portion of the territory included within the project area is transferred from the agency of the county to the agency of the city, a provision permitting the agency of the county to undertake activities to implement the redevelopment plan in

portions of the project area under the territorial jurisdiction of the agency of the city or for the agency of the city to undertake activities to implement the redevelopment plan in portions of the project area under the territorial jurisdiction of the county.

(6) Any other terms and conditions which the agency of the county, the board of supervisors, the agency of the city, or the city council mutually determine to be necessary or desirable to facilitate the transfer of territorial jurisdiction over all, or a substantial portion, of the project area and the implementation of the redevelopment plan.

(d) The effective date of the transfer of territorial jurisdiction is the first day of the fiscal year which begins following the effective date of the resolution adopted pursuant to paragraph (1) of subdivision (b) or the effective date of the later enacted of the ordinances adopted pursuant to paragraph (2) of subdivision (b), whichever date is later.

(e) On and after the effective date of the transfer of territorial jurisdiction:

(1) Except as otherwise provided by the agreement entered into pursuant to paragraph (1) of subdivision (b), the agency of the city and the city council shall have all of the rights, powers, and responsibilities provided by this part with respect to all, or the portion, of the project area for which the territorial jurisdiction has been transferred to the city and with respect to all, or the portion, of the redevelopment plan for all, or that portion, of the project area.

(2) The debts and any other obligations of the agency of the county or the board of supervisors in connection with the project area, or a substantial portion of the project area transferred to the city, as the case may be, or the redevelopment plan for that project area, or portion of the project area, shall be assumed by the agency of the city.

(3) For the purposes of this part, including Section 33670, the redevelopment plan for all, or a substantial portion of, the project area for which territorial jurisdiction is transferred from the agency of the county to the agency of the city pursuant to this section shall be considered to have been adopted by the city council on the date the redevelopment plan was originally adopted by the board of supervisors.

SEC. 16. Section 50459 of the Health and Safety Code is amended to read:

50459. (a) The department may adopt, and from time to time revise, guidelines for the preparation of housing elements required by Section 65302 and Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(b) The department shall review housing elements and amendments for substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code and report its findings pursuant to Section 65585 of the Government Code.

(c) On or before April 1, 1995, and annually thereafter, the department shall report to the Legislature on the status of housing elements and the extent to which they comply with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. The department shall also make this report available to any other public agency, group, or person who requests a copy.

(d) The department may, in connection with any loan or grant application submitted to the agency, require submission to the department for review of any housing element and any local housing assistance plan adopted pursuant to the Housing and Community Development Act of 1974 (Public Law 93-383).

SEC. 17. Section 1463.001 of the Penal Code is amended to read:

1463.001. All fines and forfeitures imposed and collected for crimes other than parking offenses resulting from a filing in a court shall as soon as practicable after receipt thereof, be deposited with the county treasurer, and each month the total fines and forfeitures which have accumulated within the past month shall be distributed, as follows:

(a) The state penalties, county penalties, special penalties, service charges, and penalty allocations shall be transferred to the proper funds as required by law.

(b) The base fines shall be distributed, as follows:

(1) Any base fines which are subject to specific distribution under any other section shall be distributed to the specified funds of the state or local agency.

(2) Any amount due to the county which is collected pursuant to Section 1203.1, but excluding fees to cover the actual cost of formal probation, shall be divided between the state and county, with 75 percent transferred to the General Fund and 25 percent transferred to the proper funds of the county.

(3) Of base fines resulting from county arrest not included in paragraph (1), 25 percent shall be transferred into the proper funds of the county, and 75 percent shall be transferred to the General Fund. Except as otherwise provided in this paragraph, in any fiscal year that a county does not remit to the General Fund an amount equal to the amount transmitted during the 1992–93 fiscal year, that county shall make a payment from county funds equal to the difference to the General Fund by October 1 of the subsequent fiscal year. In any fiscal year that a county, which has an agreement that was in effect as of March 22, 1977, that provides for city fines and forfeitures to accrue to the county in exchange for sales tax receipts, does not remit to the General Fund an amount equal to the amount transmitted during the 1993–94 fiscal year, that county shall make a payment from county funds equal to the difference to the General Fund by October 1 of the subsequent fiscal year.

(4) Of base fines resulting from city arrests not included in paragraph (1), an amount equal to the applicable county percentages set forth in Section 1463.002, as modified by Section

1463.28, shall be divided between the state and county, with 75 percent transferred to the General Fund and 25 percent transferred into the proper funds of the county. In any fiscal year that a county does not remit to the General Fund an amount equal to the amount transmitted during the 1992–93 fiscal year, that county shall make a payment from county funds equal to the difference to the General Fund by October 1 of the subsequent fiscal year. The remainder of base fines resulting from city arrests shall be divided between each city and the state, with 50 percent deposited to the General Fund, and 50 percent deposited to the treasury of the appropriate city.

(5) In a county that had an agreement as of March 22, 1977, that provides for city fines and forfeitures to accrue to the county in exchange for sales tax receipts, of base fines resulting from city arrests not included in paragraph (1), 50 percent shall be deposited to the General Fund, and 50 percent shall be deposited into the proper funds of the county.

(c) Each county shall keep a record of its deposits to its treasury and its transmittal to each city treasury pursuant to this section, and shall provide these records upon request to the Controller.

(d) Any amounts required to be distributed to the state pursuant to this section shall be remitted to the Controller no later than 45 days after the end of the month in which those fines and forfeitures were collected. This remittance shall be accompanied by a remittance advice identifying the collection month and the appropriate account in the General Fund to which it is to be deposited. Any remittance which is not made in accordance with this section shall be considered delinquent and subject to subdivision (b) of Section 77205.1 of the Government Code.

(e) In the event that the percentage of revenues payable to the General Fund from violations of any of the provisions of the Fish and Game Code or any regulation adopted pursuant thereto, or any other law providing for the protection or preservation of birds, mammals, fish, reptiles or amphibia, is reduced by operation of law to a percentage lower than that payable to the state during the 1991–92 fiscal year, each county shall increase its transmittal to the General Fund from its share of fines and forfeitures pursuant to subdivision (b) by an amount equal to the reduction in its transmittal to the General Fund.

(f) The distribution specified in subdivision (b) applies to all funds subject thereto distributed on or after July 1, 1992, regardless of whether the court has elected to allocate and distribute funds pursuant to Section 1464.8.

SEC. 18. Section 2714 of the Public Resources Code is amended to read:

2714. This chapter does not apply to any of the following activities:

(a) Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster.

(b) Onsite excavation and onsite earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site, subject to all of the following conditions:

(1) All required permits for the construction, landscaping, or related land improvements have been approved by a public agency in accordance with applicable provisions of state law and locally adopted plans and ordinances, including, but not limited to, Division 13 (commencing with Section 21000).

(2) The lead agency's approval of the construction project included consideration of the onsite excavation and onsite earthmoving activities pursuant to Division 13 (commencing with Section 21000).

(3) The approved construction project is consistent with the general plan or zoning of the site.

(4) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(c) Operation of a plant site used for mineral processing, including associated onsite structures, equipment, machines, tools, or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to all of the following conditions:

(1) The plant site is located on lands designated for industrial or commercial uses in the applicable county or city general plan.

(2) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the applicable city or county.

(3) None of the minerals being processed are being extracted onsite.

(4) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred onsite after January 1, 1976.

(d) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.

(e) Surface mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(f) Any other surface mining operations that the board, as defined by Section 2001, determines to be of an infrequent nature and which involve only minor surface disturbances.

(g) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(h) Emergency excavations or grading conducted by the

Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters, or other emergencies.

(i) (1) Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control, if the Department of Water Resources adopts, after submission to and consultation with, the Department of Conservation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the board adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the Department of Conservation by the date specified by the Department of Conservation on these mining activities.

(2) Nothing in this subdivision shall require the Department of Water Resources or the Reclamation Board to obtain a permit or secure approval of a reclamation plan from any city or county in order to conduct surface mining operations specified in paragraph (1). Nothing in this subdivision shall preclude the bringing of an enforcement action pursuant to Section 2774.1, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or the Reclamation Board on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources or the Reclamation Board, is otherwise not in compliance with this chapter.

SEC. 19. Section 9314 of the Public Resources Code is amended to read:

9314. (a) The term of office of the directors, except those first elected, shall be four years. The expiration of the term of any director does not constitute a vacancy, and the director shall hold office until his or her successor has qualified.

(b) (1) As an alternative to the election of directors, the board of directors may, by a resolution presented to the board of supervisors of the principal county, request the board of supervisors to appoint directors, except those first elected. In any election year, the board of directors shall file its request with the board of supervisors not later than 125 days prior to the election. A copy of the resolution shall be furnished to the official responsible for conducting the election at the time it is presented to the board of supervisors of the principal county. The board of supervisors shall appoint directors, after consultation with the board of supervisors of any other county which contains any part of the district, from those candidates who have filed an application with the board of supervisors, as prescribed by the

board of supervisors. If the directors are to be appointed, a notice of election shall not be published, but a notice of vacancy shall be posted pursuant to Section 54974 of the Government Code.

(2) The resolution shall remain in effect until rescinded by the board of directors, or until a petition requesting the rescission is received by the elections official. The petition shall be signed by 5 percent of the registered voters in the district, and shall be received not later than the 120th day before the election. Upon verification by the elections official that the petition contains the requisite number of signatures, the resolution shall be rescinded.

(3) The appointment of directors by the board of supervisors does not affect the status of a district as an independent special district.

(4) If the board of supervisors does not conduct interviews of potential candidates or make an appointment within 60 days after the expiration of the term, the board of directors may make the appointment.

(c) It is the intent of the Legislature to encourage districts to opt for the selection of directors by election, but where directors are appointed pursuant to subdivision (b), it is the intent of the Legislature that the board of supervisors solicit recommendations from within the district, including public, private, and nonprofit entities, and appoint only applicants who are determined by the board of supervisors to have a demonstrated interest in soil and water conservation. In selecting directors pursuant to subdivision (b), the board of supervisors shall endeavor to achieve balanced representation on the board of directors. To avoid undue financial burdens to districts and to thereby promote the objectives of this division, the Legislature hereby encourages counties to waive or minimize the charges for costs of elections conducted pursuant to this division.

SEC. 20. Section 15961.5 is added to the Public Utilities Code, to read:

15961.5. (a) Notwithstanding any other provision of the division, the candidates for director of any district that is wholly or partially within the County of Placer may be elected at large, by wards, or from wards upon adoption of a resolution or ordinance to that effect by the board of directors of the district, subject to approval of the board of supervisors, or as a part of a change of organization or a reorganization conducted pursuant to the Cortese-Knox Local Government Reorganization Act of 1985, Division 3 (commencing with Section 56000) of Title 5 of the Government Code.

(b) A resolution or ordinance that divides a district into wards adopted pursuant to subdivision (a) shall describe the boundaries of the wards so that the wards shall be as nearly equal in population as may be.

(c) As used in this section:

(1) "By wards" means the election of members of the board of directors by voters of the ward alone.

(2) "From wards" means the election of members of the board of

directors who are residents of the ward from which they are elected by the voters of the entire district.

SEC. 21. Section 15978 is added to the Public Utilities Code, to read:

15978. (a) Notwithstanding any other provision of law, if a reorganization occurs involving the Fallbrook Public Utility District and the Fallbrook Sanitary District and the reorganization dissolves the Fallbrook Sanitary District and allows the Fallbrook Public Utility District to provide sewer service, the Board of Directors of the Fallbrook Public Utility District shall consist of seven members. Before the effective date of the reorganization, the Board of Directors of the Fallbrook Sanitary District shall select two of its members to serve on the Board of Directors of the Fallbrook Public Utility District.

(b) This section is repealed on December 31, 1996.

SEC. 22. Section 99243 of the Public Utilities Code is amended to read:

99243. (a) The Controller, in cooperation with the department and the operators, shall design and adopt a uniform system of accounts and records, from which the operators shall prepare and submit annual reports of their operation to the transportation planning agencies having jurisdiction over them and to the Controller within 90 days of the end of the fiscal year. The report shall specify (1) the amount of revenue generated from each source and its application for the prior fiscal year, and (2) the data necessary to determine which section, with respect to Sections 99268.1, 99268.2, 99268.3, 99268.4, 99268.5, and 99268.9, the operator is required to be in compliance with in order to be eligible for funds under this article.

(b) As a supplement to the annual report prepared pursuant to subdivision (a), each operator shall include an estimate of the amount of revenues to be generated from each source and its proposed application for the next fiscal year, and a report on the extent to which it has contracted with the Prison Industry Authority, including the nature and dollar amounts of all contracts entered into during the reporting period and proposed for the next reporting period.

(c) The Controller shall instruct the county auditor to withhold payments from the fund to any operator that has not submitted its annual report to the Controller within the time specified by subdivision (a).

(d) In establishing the uniform system of accounts and records, the Controller shall include the data required by the United States Department of Transportation and the department.

(e) Notwithstanding any other law or any regulation, including any California Code of Regulations provision, the City of South Lake Tahoe and the City of Huntington Beach may select, for purposes of this chapter, on a one-time basis, a fiscal year that does not end on June 30. After the city has sent a written notice to the Secretary of the Business, Transportation and Housing Agency and the Controller

that the city has selected a fiscal year other than one ending on June 30, the fiscal year selected by the city shall be its fiscal year for all reports required by the state under this chapter.

SEC. 23. Section 2151 of the Streets and Highways Code is amended to read:

2151. On or before the first day of October of each year, the governing body of each county and city shall cause to be made and filed with the Controller a complete report of the expenditures for street or road purposes during the preceding fiscal year ending on the 30th day of June. However, the City of South Lake Tahoe and the City of Huntington Beach may send, on a one-time basis, a written notice to the Controller that it has selected a fiscal year ending on a date other than June 30, and, in that case, the fiscal year selected by the city shall be its fiscal year for reports under this section.

The Controller shall prescribe the form and contents of the report. The report shall show the amount expended for construction by contract, maintenance by contract, construction by day labor, and maintenance by day labor. For construction and maintenance by day labor, the amount shall include the cost of material, labor, equipment, and overhead for work performed thereunder.

The board of supervisors of each county shall by appropriate action, at any regular or special meeting, designate either the county road commissioner or the county auditor as the person responsible for making and signing the report required by this section. When the road commissioner is designated to make and sign the report, the county auditor shall certify the report before it is filed with the Controller. When the county auditor is designated to make and sign the report, the road commissioner shall certify the report before it is filed with the Controller. Reports made by each city shall be certified by the city's fiscal officer.

SEC. 24. Section 30514 of the Water Code is amended to read:

30514. If, on or before July 1, 1977, a district has assumed the responsibilities, rights, duties, assets, liabilities, and obligations of a sanitary district, the board may, and from time to time thereafter may, increase the number of directors to serve thereon to seven, nine or eleven. The additional directors shall be elected at the next general district election or at a special election called for that purpose. One-half of the additional directors shall hold office until the election and qualification of their successors at the first succeeding general district election, and the other one-half of the additional directors shall hold office until the election and qualification of their successors at the second succeeding general district election. The additional directors shall classify themselves by lot to determine their initial terms of office. Thereafter, they shall hold office for the term provided in Section 30502.

SEC. 25. Section 30516 is added to the Water Code, to read:

30516. (a) If the Orange County local agency formation commission orders the reorganization of the Capistrano Beach County Water District and the Capistrano Beach Sanitary District

into a single district, the board of directors of the reorganized district shall, notwithstanding Section 30500 or any other provision of law, initially consist of 10 members, who shall be the combined boards of directors of the two districts as of the effective date of the reorganization.

(b) Upon the expiration of the terms of the members of the board of directors of the reorganized district whose terms first expire following the effective date of the reorganization, the total number of members on the board of directors shall be reduced to seven members. Upon the expiration of the succeeding terms of the members of the board of directors of the reorganized district, the total number of members of the board of directors shall be reduced to five members.

(c) In addition to the powers granted under Section 1780 of the Government Code, in the event of a vacancy on the board of directors of the reorganized district at which time the total number of directors is greater than five, the board of directors may, by majority vote of the remaining members of the board, choose not to fill the vacancy. In that event the total membership of the board of directors shall be reduced by one board member. Upon making the determination not to fill a vacancy, the board of directors shall notify the board of supervisors of its decision.

SEC. 26. Section 50658 of the Water Code is amended to read:

50658. No warrant for the creation or replenishment of a revolving fund shall be paid by the county treasurer unless the order creating the revolving fund includes the assumption by the district of the responsibility for the disbursement of the fund and contains an agreement to hold and save the county treasurer harmless from any improper disbursement of the fund.

SEC. 27. Section 50707 is added to the Water Code, to read:

50707. (a) Notwithstanding any other provision of law and regardless of the number of eligible voters within its boundaries, a district may, by resolution of its governing board, conduct any election by all-mailed ballots pursuant to Chapter 5 (commencing with Section 1340) of Division 2 of the Elections Code.

(b) An election conducted pursuant to this section shall be held on a date prescribed in Section 23509.5 of the Elections Code or on any other date other than an established election date.

SEC. 28. With respect to Sections 20, 21, 22, 23, and 25 of this act, the Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances of the public utility districts that serve Placer County, the Fallbrook Public Utility District in San Diego County, the City of Huntington Beach, and the special districts which serve the community of Capistrano Beach.

SEC. 29. All provisions of this act except Sections 9, 21, 22, and 23 shall become operative January 1, 1995.

SEC. 30. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for local agencies to implement the changes authorized by this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 940

An act to amend Sections 503 and 522 of the Harbors and Navigation Code, to amend Sections 227 and 3205 of the Revenue and Taxation Code, and to amend Sections 9880 and 9900 of the Vehicle Code, relating to vessels.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 503 of the Harbors and Navigation Code is amended to read:

503. (a) A lienholder shall apply to the department for the issuance of an authorization to conduct a lien sale pursuant to the provisions of this section for any vessel with a value determined to be over one thousand five hundred dollars ($1,500). A fee shall be charged by the department and may be recovered by the lienholder if a lien sale is conducted or if the vessel is redeemed. The application shall be executed under penalty of perjury and shall include all of the following information:

(1) A description of the vessel, including make, hull identification number, and state of registration, to the extent available.

(2) The names and addresses of the registered and legal owners of the vessel, if ascertainable from the registration certificate within the vessel, and the name and address of any person whom the lienholder knows or reasonably should know claims a proprietary interest in the vessel.

(3) A statement of the amount of the lien and the facts which give rise to the lien. The statement shall include, as a separate item, an estimate of any additional storage costs accruing pending the lien sale.

(b) Upon receipt of an application made pursuant to subdivision (a), the department shall within 15 days thereafter do the following:

(1) Notify the vessel registry agency of a foreign state of the pending lien sale, if the vessel bears indicia of registration in that state.

(2) By mail, send a notice, a copy of the application, and a return envelope preaddressed to the department to the registered and legal owners at their addresses of record with the department, and to any

other person whose name and address is listed in the application.

(3) A vessel registration stop order or title transfer stop order shall be applied by the department at the time the lien claimant requests authorization to conduct the sale.

(4) Notify the applicant of any outstanding property tax lien on the vessel of which the department has been notified pursuant to subdivision (b) of Section 3205 of the Revenue and Taxation Code. The notice required by this paragraph shall identify the county in which any outstanding lien is held.

(c) The notice required pursuant to subdivision (b) shall include all of the following statements:

(1) An application has been made with the department for authorization to conduct a lien sale and the department has placed a vessel registration stop order or title transfer stop order on the vessel.

(2) Each person to whom notice is sent pursuant to subdivision (b) is entitled to a hearing in court if that person so desires.

(3) If a hearing in court is desired, a declaration of opposition, signed under penalty of perjury, is required to be signed and returned to the department within 15 days of the date that the notice required pursuant to subdivision (b) was mailed.

(4) If the declaration of opposition is signed and returned to the department, the lienholder will be allowed to sell the vessel only if he or she obtains a court judgment or a subsequent release from the declarant.

(5) If a court action is filed, the declarant will be served by mail with legal process in the court proceedings at the address shown on the declaration of opposition and may appear to contest the claim.

(6) The person may be liable for court costs if a judgment is entered in favor of the lienholder.

(d) If the department receives the declaration of opposition in the time provided, the department shall notify the lienholder within 16 days of the receipt of the declaration of opposition that a lien sale shall not be conducted unless the lienholder files an action in court within 60 days of the notice. A lien sale of the vessel shall not be conducted unless judgment is subsequently entered in favor of the lienholder or the declarant subsequently releases his or her interest in the vessel.

(e) Service of legal process on the declarant, with return receipt requested signed by the declarant or an authorized agent of the declarant at the address shown on the declaration of opposition, shall be effective. Return of a declaration of opposition shall constitute consent by the declarant to service of legal process for the desired court hearing upon him or her in the foregoing manner. Notwithstanding subdivision (d) of Section 415.3 of the Code of Civil Procedure, if the lienholder has attempted service upon declarant by that method at the address shown on the declaration of opposition and the mail has been returned unclaimed, the department shall promptly authorize the sale.

(f) Upon receipt of authorization to conduct the lien sale, the lienholder shall do all of the following:

(1) At least 10 days, but not more than 30 days, prior to the lien sale, not counting the day of the sale, give notice of the sale by advertising once in a newspaper of general circulation published in the county in which the vessel is located. If there is no newspaper published in the county, notice shall be given by posting a notice of sale form in three of the most public places in the area in which the vessel is located and at the place where the vessel is to be sold for 10 consecutive days prior to and including the day of the sale.

(2) Send a notice of pending lien sale 20 days prior to the sale, but not counting the day of sale, by mail with return receipt requested, to each of the following:

(A) The registered and legal owners of the vessel, if registered in this state.

(B) All persons known to have an interest in the vessel.

(C) The department.

(g) Upon receipt of the notice, the department shall mark its records and thereafter notify any person having a proprietary interest in the vessel that there is a pending lien sale and that title will not be transferred until the lien is satisfied or released.

(h) All notices required by this section, including the notice forms prescribed by the department, shall specify the make, hull identification number, and state of registration, if available, and the specific date, exact time, and place of sale.

SEC. 1.5. Section 522 of the Harbors and Navigation Code is amended to read:

522. (a) Any hulk, derelict, wreck, or parts of any ship, vessel, or other watercraft sunk, beached, or allowed to remain in an unseaworthy or dilapidated condition upon publicly owned submerged lands, salt marsh, or tidelands within the corporate limits of any municipal corporation or other public corporation or entity having jurisdiction or control over those lands, without its consent expressed by resolution of its legislative body, for a period longer than 30 days without a watchman or other person being maintained upon or near and in charge of the property, is abandoned property.

Thereafter, that municipal corporation or other public corporation or entity may, notwithstanding any other provision of law, take title to the abandoned property for purposes of abatement without satisfying any property tax lien on that property, and also may cause the property to be sold, destroyed, or otherwise disposed of in any manner as it may determine is expedient or convenient. Any property tax lien on the abandoned property shall be satisfied prior to any transfer of title to that property from the public entity. Any sale in accordance with this section shall vest complete title in the purchaser who shall forthwith take steps to remove the property. Any proceeds derived from the sale shall be the property of the municipal corporation or other public corporation or entity.

(b) However, if the owner of the property securely affixes to the

property a notice in plain view setting forth the owner's name and address and claim of ownership, together with the name and address of an agent or representative whom the owner may designate to act within the State of California if the owner does not reside in the state, and files a copy of the notice with the secretary of the municipal corporation or other public corporation or entity having jurisdiction or control over the lands at least five days prior to the removal, the municipal corporation or other public corporation or entity may not sell, destroy, or otherwise dispose of the property until the corporation or entity has first given the owner or the owner's agent, at the address specified in the claim of ownership, 30 days' notice to remove or cause the property to be removed, and then only if the property is not removed by the owner or the owner's agent within that time or reasonable extensions of time as the corporation or entity may grant by resolution. If a registration number appears on the watercraft, the municipal corporation or other public corporation or entity shall send the notice to the last registered owner and the disposition shall be handled as a lien sale under Section 504.

(c) Any municipal corporation or other public corporation may charge a fee to any person who is determined by that municipal or other public corporation to have caused property of a type described in subdivision (a) to become abandoned as described in that subdivision within its corporate limits, in an amount not to exceed the amount of that municipal or other public corporation's actual and reasonable costs incurred pursuant to this section with respect to the abandoned property.

SEC. 2. Section 227 of the Revenue and Taxation Code is amended to read:

227. A documented vessel, as defined in Section 130, shall be assessed at 4 percent of its full cash value only if the vessel is engaged or employed exclusively in any of the following:

(a) In the taking and possession of fish or other living resource of the sea for commercial purposes.

(b) In instruction or research studies as an oceanographic research vessel.

(c) In carrying or transporting seven or more people for hire for commercial passenger fishing purposes and holds a current certificate of inspection issued by the United States Coast Guard. A vessel shall not be deemed to be engaged or employed in activities other than the carrying or transporting of seven or more persons for hire for commercial passenger fishing purposes by reason of that vessel being used occasionally for dive, tour, or whale watching purposes. For purposes of this subdivision, "occasionally" means 15 percent or less of the total operating time logged for the immediately preceding assessment year.

The Controller shall audit all claims for reimbursement to determine whether those claims comply with the requirements of this section.

SEC. 3. Section 3205 of the Revenue and Taxation Code is amended to read:

3205. (a) The county tax collector may, within 30 days after the delinquency date, give written notice to the owners of all property tax delinquent vessels that, in addition to standard county delinquent property tax procedures, the renewal of the certificate of number of, and the transfer of any title to or interest in, that vessel will be withheld by the Department of Motor Vehicles as provided in Section 9880 of the Vehicle Code, until the delinquent taxes have been paid on that vessel.

(b) If the county tax collector has given notice pursuant to subdivision (a), he or she shall give written notice of the delinquency, by electronic transmission or otherwise, to the Department of Motor Vehicles for its recordation pursuant to Section 9880 of the Vehicle Code. Upon receiving a possessory lien sale application filed with respect to a vessel pursuant to subdivision (a) of Section 503 of the Harbors and Navigation Code, the Department of Motor Vehicles shall, in accordance with paragraph (4) of subdivision (b) of that section, notify the applicant of any outstanding property tax lien on that vessel of which the department has been notified pursuant to this subdivision.

(c) If the county tax collector has given notice pursuant to subdivisions (a) and (b), the county tax collector shall also provide written notice to the Department of Motor Vehicles when the delinquency has been satisfied.

SEC. 4. Section 9880 of the Vehicle Code is amended to read:

9880. (a) The department shall not renew the certificate of number of, or allow a transfer of any title to or interest in, a vessel if the county tax collector has notified the department pursuant to Section 3205 of the Revenue and Taxation Code, that taxes are delinquent upon the vessel, and the department shall not subsequently issue a certificate of number for, or a new certificate of ownership reflecting a transfer of title to or interest in, that vessel until the department receives a certificate of clearance from the county tax collector that the delinquent taxes have been paid on that vessel or until the county tax collector has provided notice to the department that the delinquency has been satisfied.

(b) The department shall record the notice of delinquent taxes on the vessel. If the department is notified by the county tax collector that the delinquency has been satisfied, the department shall, if all other requirements are satisfied, issue a certificate of number for, or a new certificate of ownership reflecting a transfer of title to or interest in, the vessel. The department shall assess a fee upon each county tax collector in an amount that is sufficient to reimburse the department for its actual costs of administering this section.

(c) Whenever a vessel subject to this section is transferred, or not renewed for two renewal periods, the department shall notify the county tax collector of that fact.

SEC. 5. Section 9900 of the Vehicle Code is amended to read:

9900. No transfer of the title or any interest in or to an undocumented vessel numbered under this code shall pass, and any attempted transfer shall not be effective, until the parties thereto have paid any delinquent property taxes with respect to that vessel and fulfilled either of the following requirements:

(a) The transferor has made proper endorsement and delivery of the certificate of ownership to the transferee as provided in this code and the transferee has delivered to the department or has placed the certificates in the United States mail addressed to the department when and as required under this code with the proper transfer fee and thereby makes application for a new certificate of ownership and a new certificate of number.

(b) The transferor has delivered to the department or has placed in the United States mail addressed to the department the appropriate documents for the transfer of ownership of the vessel pursuant to the sale or transfer except as otherwise provided.

SEC. 6. This act shall become operative on July 1, 1995.

SEC. 7. Notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section relating to any exemption or classification of property for more than five years or for more than 75 percent of the value thereof, shall not apply to any exemption or classification made by this act. In addition, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

CHAPTER 941

An act to add Section 2888 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 2888 is added to the Public Utilities Code, to read:

2888. The commission shall pursue all available legal remedies to redraw intrastate inter-exchange, also known as local access and transport area, or LATA, boundaries for the purpose of eliminating restrictions that result in discriminatory costs, added inconvenience, and less service for consumers of telecommunications services solely in and between the Counties of Monterey and Santa Cruz.

SEC. 2. The Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution due to the unique circumstances concerning the delivery of telecommunications

services in and between the Counties of Monterey and Santa Cruz.

CHAPTER 942

An act to amend Sections 10233, 10308.5, 10354, 10507, 10855, 10860, 12161, 12162, 12163, 12200, 12225, 12301, 12310, and 12320 of the Public Contract Code, and to amend Section 42202 of the Public Resources Code, relating to state contracts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. The Legislature hereby finds and declares the following:

(a) The federal government, through executive action, has recently strengthened federal procurement guidelines for recycled paper products.

(b) The "Federal Acquisition, Recycling, and Waste Prevention Executive Order" issued by President Clinton establishes minimum recycled content standards for printing and writing papers that significantly exceed California's standards established in the State Assistance for Recycling Markets Act of 1989 and subsequently modified by Assembly Bill 11 in 1993.

(c) It is the intent of the Legislature to conform the definition of recycled paper for purposes of uncoated printing and writing paper in Sections 10507, 10855, 12161, and 12301 of the Public Contract Code and Section 42202 of the Public Resources Code, with federal purchasing guidelines developed by the Environmental Protection Agency reflecting the recycled fiber content requirements in Section 504 (a) and (b) of the executive order entitled "Federal Acquisition, Recycling and Waste Prevention."

SEC. 2. Section 10233 of the Public Contract Code is amended to read:

10233. Contractors shall certify in writing, under penalty of perjury, to the department awarding a contract under this part, the minimum, if not exact, percentage of recycled content, both postconsumer material and secondary material as defined in Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of the contract, regardless of whether the product meets the required recycled product percentage as defined in Sections 12161 and 12200. The contractor may certify that the product contains zero recycled content. This section shall apply to all state contracts and, to the extent feasible, all federally funded contracts.

SEC. 3. Section 10308.5 of the Public Contract Code is amended

to read:

10308.5. Contractors shall certify in writing, under penalty of perjury, to the state agency awarding a contract, the minimum, if not exact, percentage of recycled content, both postconsumer material and secondary material as defined in Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of the contract, regardless of whether the product meets the required recycled product percentage as defined in Sections 12161 and 12200. The contractor may certify that the product contains zero recycled content. This section shall apply to all state contracts and, to the extent feasible, all federally funded contracts.

SEC. 4. Section 10354 of the Public Contract Code is amended to read:

10354. Contractors shall certify in writing, under penalty of perjury, to the state agency awarding a contract, the minimum, if not exact, percentage of recycled content, both postconsumer material and secondary material as defined in Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of the contract, regardless of whether the product meets the required recycled product percentage as defined in Sections 12161 and 12200. The contractor may certify that the product contains zero recycled content. This section shall apply to all state contracts and, to the extent feasible, all federally funded contracts.

SEC. 5. Section 10507 of the Public Contract Code is amended to read:

10507. For the purpose of this article, "recycled paper" means all paper and woodpulp products containing postconsumer and secondary materials as defined in this section. "Postconsumer material" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust or other wood residue from a manufacturing process.

"Recycled paper" means a paper product with not less than 50 percent, by fiber weight, consisting of secondary and postconsumer material, with not less than 10 percent of the fiber weight consisting of postconsumer material.

For fine grades of paper such as uncoated printing and writing grades, "recycled paper" means either of the following:

(a) For text and cover grades and cotton fiber papers, not less than 50 percent by fiber weight consisting of secondary and postconsumer material with not less than 20 percent of fiber weight

consisting of postconsumer material.

(b) For other uncoated printing and writing grades, not less than 20 percent by fiber weight consisting of postconsumer material.

Effective January 1, 1999, for both subdivisions (a) and (b), the postconsumer material content shall be increased to 30 percent of fiber weight.

SEC. 6. Section 10855 of the Public Contract Code is amended to read:

10855. For the purpose of this article, "recycled paper product" means all paper and woodpulp products containing postconsumer and secondary materials as defined in this section. "Postconsumer material" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process.

"Recycled paper product" means a paper product with not less than 50 percent, by fiber weight, consisting of secondary and postconsumer material with not less than 10 percent of fiber weight consisting of postconsumer material.

For fine grades of paper such as uncoated printing and writing grades, "recycled paper" means either of the following:

(a) For text and cover grades and cotton fiber papers, not less than 50 percent by fiber weight consisting of secondary and postconsumer material with not less than 20 percent of fiber weight consisting of postconsumer material.

(b) For other uncoated printing and writing grades, not less than 20 percent by fiber weight consisting of postconsumer material.

Effective January 1, 1999, for both subdivisions (a) and (b), the postconsumer material content shall be increased to 30 percent of fiber weight.

SEC. 7. Section 10860 of the Public Contract Code is amended to read:

10860. (a) The trustees shall revise the procedures and specifications for purchases of paper products to give preference, wherever feasible, to the purchase of paper products containing recycled paper products pursuant to Section 10855.

(b) The trustees shall give purchase preference to recycled paper products when both of the following apply:

(1) The products can be substituted for, and cost no more than, nonrecycled paper products.

(2) The products meet all applicable standards and regulations.

(c) To encourage the use of postconsumer material, the trustees' specifications shall require recycled paper product contracts to be

awarded to the bidder whose paper product contains the greater percentage of postconsumer material if the fitness and quality and price meet the requirements in this section and Section 10855 .

(d) The trustees shall set the following goals for the purchasing of recycled paper products:

(1) By January 1, 1992, at least 35 percent of the total dollar amount of paper products purchased or procured by the trustees shall be purchased as a recycled paper product.

(2) By January 1, 1994, at least 40 percent of the total dollar amount of paper products purchased or procured by the trustees shall be purchased as a recycled paper product.

(3) By January 1, 1996, at least 50 percent of the total dollar amount of paper products purchased or procured by the trustees shall be purchased as a recycled paper product.

If at any time a goal has not been met, the trustees and the Department of General Services, in consultation with the California Integrated Waste Management Board, shall review procurement policies and shall make recommendations for immediate revisions to ensure that each goal is met. Revisions include, but are not limited to, providing a purchasing preference and altering the goals. The trustees and the Department of General Services, in consultation with the board, shall present its conclusions and recommendations on these revisions of procurement policies to the Legislature and the Governor in the department's annual report pursuant to Section 12225.

SEC. 8. Section 12161 of the Public Contract Code is amended to read:

12161. For the purpose of this article, "recycled paper product" means all paper and woodpulp products containing postconsumer and secondary materials, as defined in this section. "Postconsumer material" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process.

"Recycled paper product" means a paper product with not less than 50 percent, by fiber weight, consisting of secondary and postconsumer material with not less than 10 percent of fiber weight consisting of postconsumer material.

For fine grades of paper such as uncoated printing and writing grades, "recycled paper" means either of the following:

(a) For text and cover grades and cotton fiber papers, not less than 50 percent by fiber weight consisting of secondary and postconsumer material with not less than 20 percent of fiber weight

consisting of postconsumer material.

(b) For other uncoated printing and writing grades, not less than 20 percent by fiber weight consisting of postconsumer material.

Effective January 1, 1999, for both subdivisions (a) and (b), the postconsumer material content shall be increased to 30 percent of fiber weight.

SEC. 9. Section 12162 of the Public Contract Code is amended to read:

12162. (a) The department shall set the following goals for the purchase of recycled paper products:

(1) By January 1, 1994, at least 40 percent of the total dollar amount of paper products purchased or procured shall be a recycled paper product, as defined in Section 12161. In addition, at least 15 percent of the total fine writing and printing paper purchased or procured shall be a recycled paper product, as defined in Section 12161.

(2) By January 1, 1996, at least 50 percent of the total dollar amount of paper products purchased or procured shall be a recycled paper product, as defined in Section 12161. In addition, at least 25 percent of the total fine writing and printing paper purchased or procured shall be a recycled paper product, as defined in Section 12161.

(b) All state agencies shall report to the department and to the board on their progress in meeting the goals specified in this section and Section 12205 and shall submit to the department and to the board a detailed plan to meet those goals. The department shall develop a uniform reporting procedure which state agencies shall follow. If at any time a goal has not been met, the department, in consultation with the board, shall review procurement policies and shall make recommendations for immediate revisions to ensure that the goal is met. The department, in consultation with the board, shall present its conclusions and recommendations on these revisions of procurement policies to the Legislature in the department's annual report pursuant to Section 12225.

(c) (1) All state agencies shall give a purchase preference, not to exceed 10 percent, to recycled paper products, if the product's fitness, quality, availability, and price meet the requirements of Section 12161. The board, in consultation with the department, shall establish, on or before May 1, 1994, and every two years thereafter, price preferences for the purposes of meeting the goals set forth in this section and Section 12205 for recycled products. For those priority commodities, as defined by the board, the price preference established by the board shall not be less than 5 percent. The board shall publish the established price preferences annually in the board's report to the Legislature pursuant to Section 40507 of the Public Resources Code.

(2) In establishing the price preferences, the board shall take into consideration the following factors:

(A) Materials that comprise the largest percentage of the state's

solid waste stream.

(B) Materials that have the highest percentage of postconsumer material.

(C) Materials that require expanded markets.

(D) Any other market factors as determined by the board.

(3) The combined dollar amount of preference granted pursuant to this section and any other provision of law shall not exceed one hundred thousand dollars ($100,000).

(d) Notwithstanding paragraph (1) of subdivision (c), the recycled paper bidder preference shall not exceed fifty thousand dollars ($50,000) if a preference exceeding that amount would preclude an award to a small business that offers nonrecycled paper products and is qualified in accordance with Section 14838 of the Government Code.

(e) The board shall implement a pilot program, from January 1, 1994, to January 1, 1997, for funding claims submitted by state agencies for providing the price preferences required by this section and Section 12205. A state agency's purchase of recycled paper products pursuant to subdivision (a) shall be ineligible for claims under the pilot program. On or before March 31, 1996, in conjunction with the annual report required by Section 40507 of the Public Resources Code, the board shall report to the Legislature and Governor on the pilot program and make recommendations concerning the continuation or modification of the program. A sum of not more than three hundred thousand dollars ($300,000) total, or one hundred thousand dollars ($100,000) annually, shall be expended for the purposes of implementing the pilot program. This subdivision shall be operative only if adequate funds for the pilot program are made available.

(f) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute which is chaptered prior to that date extends or deletes that date.

SEC. 10. Section 12163 of the Public Contract Code is amended to read:

12163. (a) The director, in consultation with the board, shall review the procurement specifications currently used by the department in order to eliminate, wherever economically feasible, discrimination against the procurement of recycled paper products.

(b) The director, in consultation with the board, shall review the recycled paper product specifications at least annually to consider increasing the percentage of recycled paper product in paper and woodpulp product purchases. The director shall include his or her conclusions and recommendations in the department's annual report pursuant to Section 12225.

(c) When contracting with the department for the sale of material subject to this article, the contractor shall certify in writing to the contracting officer or his or her representative that the material offered contains the minimum percentage of recycled paper required by Section 12161 and shall specify the minimum, if not

exact, percentage of secondary and postconsumer material in the paper products. The certification shall be furnished under penalty of perjury.

(d) The department, in consultation with the board, shall establish purchasing practices which, to the maximum extent economically feasible, assure purchase of materials which may be recycled or reused when discarded.

(e) The department shall make every effort to eliminate purchases of paper products deemed potential contaminants to the state's recycling program pursuant to Section 12165.

SEC. 11. Section 12200 of the Public Contract Code is amended to read:

12200. For the purpose of this article:

(a) "Recycled product" means all materials, goods, and supplies, no less than 50 percent of the total weight of which consists of secondary and postconsumer material with not less than 10 percent of its total weight consisting of postconsumer material. A recycled product shall include any product which could have been disposed of as solid waste having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of its form.

(b) "Postconsumer material" means a finished material which would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes.

(c) "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value, and includes postconsumer material, but does not include excess virgin resources of the manufacturing process.

SEC. 12. Section 12225 of the Public Contract Code is amended to read:

12225. On or before August 31, 1991, and every year thereafter, the department, in consultation with the board, shall prepare a report to the Legislature describing the purchase and procurement of products purchased by the state before and after January 1, 1990. The report shall detail as much as possible, the amount of recycled products utilized by state contractors before and after the enactment of this chapter. The report shall include, but not be limited to, the following:

(a) Listed by department, the total dollar amounts, volume, and number of contracts of individual products purchased by the department and any other agency having delegated procurement authority pursuant to Section 10333.

(b) Total dollar amounts, volume, and number of contracts of each product purchased by the state, which includes the Legislature, the California State University, and the University of California systems.

(c) A list of individual recycled products purchased pursuant to

Sections 10507.5 and 10860, inclusive, this chapter and Chapter 5 (commencing with Section 12300).

(d) The total dollar amounts, volume, and number of contracts of individual products, whether recycled or nonrecycled, purchased by the state.

(e) The total dollar amounts, volume, and number of contracts of recycled products including recycled paper and compost products purchased pursuant to Sections 10507.5 and 10860, inclusive, this chapter, and Chapter 5 (commencing with Section 12300).

(f) The total dollar amount and volume of compost and co-compost products utilized by the state pursuant to Section 12183 or any other state or local program.

(g) For recycled paper products purchased by procuring agencies, the total number of contracts, dollar amounts, and volume of those contracts that were eligible for the preference pursuant to Section 12162.

(h) For each recycled product, including recycled paper and compost products, the total dollar amounts, volume, and number of contracts that were eligible a preference or a combination thereof pursuant to Sections 4533, 7095, and 14838 of the Government Code.

(i) Total number of bids for each product listed in Section 12157, whether or not a contract was awarded the bid.

(j) The range of dollar amounts for bids on procurement contracts which include, but is not limited to, contracts for the procurement of individual recycled products listed in Section 12157.

(k) For each waste material, total revenue dollars and volume generated from the state waste materials collection program pursuant to Section 12165.

(*l*) Recommendations to the Legislature as to revisions of the percentage amounts contained in the secondary material and postconsumer material definitions for individual products which will result in greater procurement of recycled products composed of recycled resources that would otherwise be disposed of as solid waste in the state's disposal facilities.

(m) Recommendations on specific products available containing secondary postconsumer material which are procured by the state, used in the performance of a service or project for the state, and used in state construction contracts.

These products shall be recommended as candidates for the application of the recycled paper product preference described in Section 12162.

(n) The California Integrated Waste Management Board, in consultation with the department, shall identify those products purchased in either large volumes or high dollar amounts by the state which are available as a recycled product. The board shall include this list in the department's annual report and shall revise this list as products purchased by the state become feasibly available in recycled form.

SEC. 13. Section 12301 of the Public Contract Code is amended

to read:

12301. The following definitions govern the interpretation of this chapter:

(a) "Department" means the Department of General Services.

(b) "Board" means the California Integrated Waste Management Board, as defined pursuant to Section 40110 of the Public Resources Code.

(c) "Recycled paper product" means all paper and woodpulp products containing postconsumer and secondary materials. "Postconsumer material" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process. "Recycled paper product" means a paper product with not less than 50 percent, by fiber weight, consisting of secondary and postconsumer material with not less than 10 percent of fiber weight consisting of postconsumer material.

For fine grades of paper such as uncoated printing and writing grades, "recycled paper" means either of the following:

(1) For text and cover grades and cotton fiber papers, not less than 50 percent by fiber weight consisting of secondary and postconsumer material with not less than 20 percent of fiber weight consisting of postconsumer material.

(2) For other uncoated printing and writing grades, not less than 20 percent by fiber weight consisting of postconsumer material.

Effective January 1, 1999, for both paragraphs (1) and (2), the postconsumer material content shall be increased to 30 percent of fiber weight.

(d) "Recycled product" means all materials, goods, and supplies, excluding paper products, no less than 50 percent of the total weight of which consists of secondary and postconsumer material with not less than 10 percent of its total weight consisting of postconsumer material. A recycled product shall include any product which could have been disposed of as solid waste having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of its form. "Postconsumer material" means a finished material which would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value, and includes postconsumer material, but does not include excess virgin resources of the manufacturing process.

SEC. 14. Section 12310 of the Public Contract Code is amended to read:

12310. (a) The Legislature shall set the following goals in the purchase of recycled paper products:

(1) By January 1, 1995, at least 40 percent of the total dollar amount of paper products purchased or procured by the Legislature shall be purchased as a recycled paper product, as defined in Section 12301. In addition, at least 15 percent of the total fine writing and printing paper purchased by the Legislature shall be recycled paper products, as defined in Section 12301.

(2) By January 1, 1997, at least 50 percent of the total dollar amount of paper products purchased or procured by the Legislature shall be purchased as a recycled paper product, as defined in Section 12301. In addition, at least 25 percent of the total fine writing and printing paper purchased by the Legislature shall be recycled paper products, as defined in Section 12301.

(3) If at any time the goal for recycled products has not been met, the Legislature and the department, in consultation with the board, shall review the procurement policies of the Legislature and shall make recommendations for immediate revisions to ensure that each goal is met. Revisions include, but are not limited to, raising the purchasing preference and altering the goals for each or all recycled products. The department, in consultation with the board, shall present its conclusions and recommendations on these revisions of procurement policies to the Legislature in the department's biennial report pursuant to Section 12225.

(b) When contracting with the Legislature for the sale of recycled paper products, the contractor shall certify in writing to the contracting officer or his or her representative, that the recycled paper products offered contain the minimum percentage of waste materials required by subdivision (c) of Section 12301. The contractor shall specify the minimum, if not the exact, percentage of recycled product in the paper product, including both the secondary and postconsumer material content. This certification shall be furnished under penalty of perjury.

(c) The Legislature may, in consultation with the board, print a symbol on paper products selected by the Legislature. The symbol shall be similar to the following:

Printed on recycled paper. This symbol shall be printed only on paper products meeting the definition of recycled paper products in Section 12301.

(d) This section shall not prevent the Legislature from using existing stocks of paper products.

(e) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute which is chaptered prior to that date extends or deletes that date.

SEC. 15. Section 12320 of the Public Contract Code is amended to read:

12320. (a) The Legislature shall require contractors to certify in

writing to the contracting officer, or his or her representative, whether the materials, goods, or supplies offered contain the minimum percentage of recycled product required by subdivision (d) of Section 12301. The contractor shall specify the minimum, if not exact, percentage of recycled product in the product, both the secondary and postconsumer material content. This certification shall be furnished under penalty of perjury.

(b) The Legislature, in consultation with the department and the board, shall review and revise the procurement specifications currently used by the Legislature in order to eliminate discrimination against the procurement or purchase of recycled products whenever quality of a recycled product is reasonably equal to the same product manufactured with virgin resources. In determining procurement specifications, with the exception of any specifications which have been established to preserve the public health and safety, all legislative procurement and purchasing specifications shall be established in a manner which results in the maximum legislative procurement and purchase of recycled products.

(c) The Legislature, in consultation with the board, shall establish purchasing practices which assure, to the maximum extent feasible, the purchase of materials, goods, and supplies which may be recycled or reused when discarded.

(d) The Legislature shall give purchase preference to recycled products when all of the following apply:

(1) The product meets applicable standards.

(2) The product can be substituted for a comparable nonrecycled product.

(3) The product costs no more than a comparable nonrecycled product.

(e) To encourage the use of postconsumer waste, the Legislature's specifications shall require recycled product contracts to be awarded to the bidder whose product contains the greater percentage of postconsumer material if the fitness and quality and price meet the requirements in subdivision (d) of Section 12301 and Section 12310.

(f) The Legislature shall set the following goals for purchases made by the Legislature or any individual or group of individuals purchasing on behalf of the Legislature:

(1) By January 1, 1991, at least 10 percent of legislative purchases are of recycled products.

(2) By January 1, 1993, at least 20 percent of legislative purchases are of recycled products.

(3) By January 1, 1995, at least 40 percent of legislative purchases are of recycled products.

(4) The goals specified in this subdivision shall be applied to the purchase by the Legislature of products described in subdivisions (b), (c), (d), (e), and (f) of Section 12305 and shall be applied to the total dollar amount of the combined purchases of those products.

Each specified goal shall be met for each product listed pursuant

to Section 12305. If at any time a goal has not been met, the Legislature and the department, in consultation with the board, shall review procurement policies of the Legislature and shall make recommendations for immediate revisions to ensure that each goal is met. Revisions include, but are not limited to, raising the purchasing preference and altering the goals for all or each recycled product. The department, in consultation with the board, shall present its conclusions and recommendations on these revisions of procurement policies to the Legislature in the department's annual report pursuant to Section 12225.

SEC. 16. Section 42202 of the Public Resources Code is amended to read:

42202. "Recycled-content high grade, bleached printing and writing papers" means all paper and woodpulp products containing postconsumer material and secondary material materials, as defined in this section. "Postconsumer material" means a finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process.

"Recycled paper product" means a paper product with not less than 50 percent, by fiber weight, consisting of secondary and postconsumer material with not less than 10 percent of the fiber weight consisting of postconsumer material.

For fine grades of paper such as uncoated printing and writing grades, "recycled paper" means either of the following:

(a) For text and cover grades and cotton fiber papers, not less than 50 percent by fiber weight consisting of secondary and postconsumer material with not less than 20 percent of fiber weight consisting of postconsumer material.

(b) For other uncoated printing and writing grades, not less than 20 percent by fiber weight consisting of postconsumer material.

Effective January 1, 1999, for both subdivisions (a) and (b), the postconsumer material content shall be increased to 30 percent of fiber weight.

SEC. 17. Changes from the terms "postconsumer waste," "secondary waste," and "total weight" to "postconsumer material," "secondary material," and "fiber weight" made by this act, shall take effect immediately. All other changes made by this act to Sections 10507, 10855, 12161, and 12301 of the Public Contract Code, and to Section 42202 of the Public Resources Code, shall not be operative until January 1, 1995.

SEC. 18. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that provisions of state law regarding recycled fiber content requirements for paper products conform as soon as possible to the requirements contained in the federal executive order on this subject, it is necessary that this act take effect immediately.

CHAPTER 943

An act to add Section 739.9 to the Public Utilities Code, relating to telecommuting.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 739.9 is added to the Public Utilities Code, to read:

739.9. The commission shall extend special programs, for up to a three-year period, requested by telephone corporations, and found by the commission to be reasonable, to encourage telecommuting in the area of the state where transportation systems have been damaged and disrupted by the Northridge earthquake of 1994. The commission shall also initiate an investigation into the establishment of special telecommunications programs to encourage telecommuting in the entire state, and shall report to the Legislature its findings and recommendations by December 1, 1995.

CHAPTER 944

An act relating to highways, and making an appropriation therefor.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. The sum of eight hundred eighty-seven thousand dollars ($887,000) is hereby appropriated from the Environmental Enhancement and Mitigation Demonstration Program Fund to the Department of Transportation for the purposes of Section 164.56 of the Streets and Highways Code.

CHAPTER 945

An act to amend Section 740.4 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 740.4 of the Public Utilities Code is amended to read:

740.4. (a) The commission shall authorize public utilities to engage in programs to encourage economic development.

(b) Reasonable expenses for economic development programs, as specified in this section, shall be allowed, to the extent of ratepayer benefit, when setting rates to be charged by public utilities electing to initiate these programs.

(c) Economic development activities may include, but not be limited to, the following:

(1) Community marketing and development.

(2) Technical assistance to support technology transfer.

(3) Market research.

(4) Site inventories.

(5) Industrial and commercial expansion and relocation assistance.

(6) Business retention and recruitment.

(7) Management assistance.

(d) This section shall not be interpreted to permit the funding of economic development activities that benefit any affiliated companies or parent holding companies beyond that which is authorized by law as of January 1, 1992.

(e) (1) This section shall not authorize the commission to establish discriminatory rates for the purpose of attracting or benefiting specific industries or business entities, except that incentives may be provided for the benefit of industries or business entities whose facilities are located within the boundaries of enterprise zones, economic incentive areas, or recycling market development zones in accordance with the provisions of Chapter 12.8 (commencing with Section 7070) and Article 1 (commencing with Section 7080) of Chapter 12.9 of Division 7 of Title 1 of the Government Code, and Article 2 (commencing with Section 42145) of Chapter 3 of Part 3 of the Public Resources Code.

(2) The commission may apply the incentives authorized by this subdivision that benefit industries or business entities whose facilities are located within the boundaries of economic enterprise zones or incentive areas to attract a federal Department of Defense Finance and Accounting Service Center at the existing site of Norton Air Force Base in San Bernardino County. This paragraph shall become

inoperative if the federal Department of Defense Finance and Accounting Service Center is not located upon the premises known as Norton Air Force Base in San Bernardino County and shall also become inoperative on February 1, 1994, if that facility has not been awarded to that site before that date.

(f) The commission may provide incentives pursuant to subdivision (e) to industries or business entities whose facilities are located within the boundaries of an enterprise zone that engage in activities in connection with the conversion of Fort Ord to other uses.

(g) The commission may authorize rate discounts to industries or business entities whose facilities are located or will be located within the boundaries of enterprise zones, recycling market development zones, or economic incentive areas pursuant to paragraph (1) of subdivision (e). These discounts may be applied in either of the following ways:

(1) Utilities may apply reduced monthly rates to qualifying customers' monthly utility bills.

(2) Utilities may, at the election of qualifying customers, assign the discounts to a private or public entity that returns consideration of like value to those customers, provided the customers agree to maintain their facilities in an enterprise zone, a recycling market development zone, or an economic incentive area for a minimum of five years from the date of commencement of the discount.

(h) It is the intent of the Legislature that the Public Utilities Commission, in implementing this chapter, shall allow rate recovery of expenses and rate discounts supporting economic development programs within the geographic area served by any public utility to the extent the utility incurring or proposing to incur, those expenses and rate discounts demonstrates that the ratepayers of the public utility will derive a benefit from those programs. Further, it is the intent of the Legislature that expenses for economic development programs incurred prior to the effective date of this chapter, which have not been previously authorized to be recovered in rates, shall not be subject to rate recovery.

CHAPTER 946

An act to add Section 739.2 to of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 739.2 is added to the Public Utilities Code, to read:

739.2. (a) The commission's program of assistance to low-income

electric and gas customers shall also include the following facilities, provided the commission finds that the occupants of the facilities substantially meet the commission's low-income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit of the occupants of the facilities:

(1) Migrant farmworker housing centers provided pursuant to Section 50710 of the Health and Safety Code.

(2) Employee housing, as defined in Section 17008 of the Health and Safety Code, that is licensed and inspected by state or local agencies pursuant to Part 1 (commencing with Section 17000) of Division 13 of the Health and Safety Code.

(3) Housing for agricultural employees, as defined in subdivision (b) of Section 1140.4 of the Labor Code, that has received an exemption from local property taxes pursuant to subdivision (g) of Section 214 of the Revenue and Taxation Code.

(b) The assistance provided pursuant to subdivision (a) shall only apply to gas and electricity, or both, used for the housing occupied by the workers and employees specified in subdivision (a).

CHAPTER 947

An act to amend Section 739 of, and to add Section 739.1 to, the Public Utilities Code, relating to public utilities.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a baseline quantity of gas and electricity which is necessary to supply a significant portion of the reasonable energy needs of the average residential customer. In estimating those quantities, the commission shall take into account differentials in energy needs between customers whose residential energy needs are currently supplied by electricity alone or by both electricity and gas. The commission shall develop a separate baseline quantity for all-electric residential customers. For these purposes, "all-electric residential customers" are residential customers having electrical service only or whose space heating is provided by electricity, or both. The commission shall also take into account differentials in energy use by climatic zone and season.

(b) (1) The commission shall establish a standard limited allowance which shall be in addition to the baseline quantity of gas and electricity for residential customers dependent on life-support equipment, including, but not limited to, emphysema and

pulmonary patients. A residential customer dependent on life-support equipment shall be given a higher energy allocation than the average residential customer.

(2) "Life-support equipment" means that equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. "Life-support equipment," as used in this subdivision, includes all of the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

(3) The limited additional allowance shall also be made available to paraplegic and quadriplegic persons in consideration of the increased heating and cooling needs of those persons.

(4) The limited additional allowance shall also be made available to multiple sclerosis patients in consideration of the increased heating and cooling needs of those persons.

(5) The limited additional allowance shall also be made available to scleroderma patients in consideration of the increased heating needs of those persons.

(c) (1) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing baseline rates. The baseline rates shall apply to the first or lowest block of an increasing block rate structure which shall be the baseline quantity. In establishing these rates, the commission shall avoid excessive rate increases for residential customers, and shall establish an appropriate gradual differential between the rates for the respective blocks of usage.

(2) In establishing residential electric and gas rates, including baseline rates, the commission shall assure that the rates are sufficient to enable the electrical corporation or gas corporation to recover a just and reasonable amount of revenue from residential customers as a class, while observing the principle that electricity and gas services are necessities, for which a low affordable rate is desirable.

(d) As used in this section:

(1) "Baseline quantity" means a quantity of electricity or gas for residential customers to be established by the commission based on from 50 to 60 percent of average residential consumption of these commodities, except that, for residential gas customers and for all-electric residential customers, the baseline quantity shall be established at from 60 to 70 percent of average residential consumption during the winter heating season. In establishing the baseline quantities, the commission shall take into account climatic and seasonal variations in consumption and the availability of gas service. The commission shall review and revise baseline quantities as average consumption patterns change in order to maintain these ratios.

(2) "Residential customer" means those customers receiving electrical or gas service pursuant to a domestic rate schedule and excludes industrial, commercial, and every other category of customer.

(e) Wholesale electrical or gas purchases, and the rates charged therefor, are exempt from this section.

(f) Nothing contained in this section shall be construed to prohibit experimentation with alternative gas or electrical rate schedules for the purpose of achieving energy conservation.

SEC. 2. Section 739.1 is added to the Public Utilities Code, to read:

739.1. (a) The commission shall establish a program of assistance to low-income electric and gas customers, the cost of which shall not be borne solely by any single class of customer. The program shall be referred to as the California Alternate Rates for Energy or CARE program.

(b) The commission's program of assistance to low-imcome electric and gas customers shall, as soon as practicable, include nonprofit group living facilities specified by the commission, if the commission finds that the residents in these facilities substantially meet the commission's low-income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit, such as improved quality of care or improved food service, of the low-income residents in the facilities. The commission shall authorize utilities to offer discounts to eligible facilities licensed or permitted by appropriate state or local agencies, and to facilities, including women's shelters, hospices, and homeless shelters, that may not have a license or permit but provide other proof satisfactory to the utility that they are eligible to participate in the program.

SEC. 3. Section 1 of this act shall not become operative if Assembly Bill No. 1879 of the 1993–94 Session is chaptered.

CHAPTER 948

An act to amend Sections 18501, 19141.5, 19141.6, 23081, 23456, 24357.1, 24416, and 25108 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 18501 of the Revenue and Taxation Code is amended to read:

18501. (a) Every individual taxable under Part 10 (commencing with Section 17001) shall make a return to the Franchise Tax Board,

stating specifically the items of the individual's gross income from all sources and the deductions and credits allowable, if the individual has any of the following for the taxable year:

(1) An adjusted gross income from all sources in excess of six thousand dollars ($6,000), if single.

(2) An adjusted gross income from all sources in excess of twelve thousand dollars ($12,000), if married.

(3) A gross income from all sources in excess of eight thousand dollars ($8,000), if single, and sixteen thousand dollars ($16,000) if married, regardless of the amount of adjusted gross income.

(4) In the case of an individual described in Section 63(c)(5) of the Internal Revenue Code, relating to limitation on basic standard deduction in the case of certain dependents, a gross income from all sources that exceeds the amount of the standard deduction allowed under that section.

(b) If a husband and wife have for the taxable year an adjusted gross income from all sources in excess of twelve thousand dollars ($12,000) or a gross income from all sources in excess of sixteen thousand dollars ($16,000), each shall make a return or the income of each shall be included on a single joint return as otherwise provided in this article.

SEC. 2. Section 19141.5 of the Revenue and Taxation Code is amended to read:

19141.5. (a) (1) Section 6038A of the Internal Revenue Code, relating to information with respect to certain foreign-owned corporations, shall apply.

(2) A penalty shall be imposed under this part for failure to furnish information or maintain records and that penalty shall be determined in accordance with Section 6038A of the Internal Revenue Code.

(3) Section 11314 of Public Law 101-508, relating to application of amendments made by Section 7403 of the Revenue Reconciliation Act of 1989 to taxable years beginning on or before July 10, 1989, shall apply.

(4) Section 6038A(e) of the Internal Revenue Code, relating to enforcement of requests for certain records, is modified as follows:

(A) Each reference to Section 7602, 7603, or 7604 of the Internal Revenue Code shall instead refer to Section 19504.

(B) Each reference to "summons" shall instead refer to "subpoena duces tecum."

(C) Section 6038A(e)(4)(C) of the Internal Revenue Code shall refer to "superior courts of the State of California for the Counties of Los Angeles, Sacramento, and San Diego, and for the City and County of San Francisco," instead of "United States district court for the district in which the person (to whom the summons is issued) resides or is found."

(b) In the case of a bank or corporation, each of the following shall apply:

(1) Section 6038B of the Internal Revenue Code, relating to notice

of certain transfers to foreign persons, shall apply.

(2) A penalty shall be imposed under this part for failure to furnish information or maintain records and that penalty shall be determined in accordance with Section 6038B of the Internal Revenue Code.

(c) (1) Section 6038C of the Internal Revenue Code, relating to information with respect to foreign corporations engaged in United States business, shall apply.

(2) A penalty shall be imposed under this part for failure to furnish information or maintain records and that penalty shall be determined in accordance with Section 6038C of the Internal Revenue Code.

(3) Section 6038C(d) of the Internal Revenue Code, relating to enforcement of requests for certain records, is modified as follows:

(A) Each reference to Section 7602, 7603, or 7604 of the Internal Revenue Code shall instead refer to Section 19504.

(B) Each reference to "summons" shall instead refer to "subpoena duces tecum."

(d) For purposes of this part, the information required to be filed with the Franchise Tax Board pursuant to this section shall be a copy of the information filed with the Internal Revenue Service.

(e) For purposes of this section, each of the following shall apply:

(1) Section 7701(a)(4) of the Internal Revenue Code, relating to the term "domestic," shall apply.

(2) Section 7701(a)(5) of the Internal Revenue Code, relating to the term "foreign," shall apply.

(3) Section 7701(a)(30) of the Internal Revenue Code, relating to the term "United States person," shall apply. However, the term "United States person" shall not include any bank or corporation that is not subject to the tax imposed under Chapter 2 (commencing with Section 23101), Chapter 2.5 (commencing with Section 23400), or Chapter 3 (commencing with Section 23501), of Part 11.

SEC. 3. Section 19141.6 of the Revenue and Taxation Code, as amended by Chapter 22 of the Statutes of 1994, is amended to read:

19141.6. (a) Each taxpayer determining its income subject to tax pursuant to Section 25101 or electing to file pursuant to Section 25110 shall, for income years beginning on or after January 1, 1994, maintain (in the location, in the manner, and to the extent prescribed in regulations which shall be promulgated by the Franchise Tax Board on or before December 31, 1995) and make available upon request all of the following:

(1) Any records as may be appropriate to determine the correct treatment of the components that are a part of one or more unitary businesses for purposes of determining the income derived from or attributable to this state pursuant to Section 25101 or 25110.

(2) Any records as may be appropriate to determine the correct treatment of amounts that are attributable to the classification of an item as business or nonbusiness income for purposes of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(3) Any records as may be appropriate to determine the correct treatment of the apportionment factors for purposes of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(4) Documents and information, including any questionnaires completed and submitted to the Internal Revenue Service that are necessary to audit issues involving attribution of income to the United States or foreign jurisdictions under Section 882 or Subpart F of Part III of Subchapter N, or similar sections, of the Internal Revenue Code.

(b) For purposes of this section:

(1) Information for any year shall be retained for that period of time in which the taxpayers' income or franchise tax liability to this state may be subject to adjustment, including all periods in which additional income or franchise taxes may be assessed, not to exceed eight years from the due date or extended due date of the return, or during which a protest is pending before the Franchise Tax Board, or an appeal is pending before the State Board of Equalization or a lawsuit is pending in the courts of this state or the United States with respect to California franchise or income tax.

(2) "Related party" means banks and corporations that are related because one owns or controls directly or indirectly more than 50 percent of the stock of the other or because more than 50 percent of the voting stock of each is owned or controlled, directly or indirectly, by the same interests.

(3) "Records" includes any books, papers, or other data.

(c) (1) If a bank or corporation subject to this section fails to maintain or fails to cause another to maintain records as required by subdivision (a), or willfully fails to comply substantially with Section 18634 requiring the filing of an information return, that bank or corporation shall pay a penalty of ten thousand dollars ($10,000) for each income year with respect to which the failure occurs.

(2) If any failure described in paragraph (1) continues for more than 90 days after the day on which the Franchise Tax Board mails notice of the failure to the bank or corporation, that bank or corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of ten thousand dollars ($10,000) for each 30-day period (or fraction thereof) during which the failure continues after the expiration of the 90-day period. The additional penalty imposed by this subdivision shall not exceed a maximum of fifty thousand dollars ($50,000) if the failure to maintain or the failure to cause another to maintain is not willful. This maximum shall apply with respect to income years beginning on or after January 1, 1994, and before the earlier of the first day of the month following the month in which regulations are adopted pursuant to this section or December 31, 1995.

(3) For purposes of this section, the time prescribed by regulations to maintain records (and the beginning of the 90-day period after notice by the Franchise Tax Board) shall be treated as not earlier than the last day on which (as shown to the satisfaction

of the Franchise Tax Board) reasonable cause existed for failure to maintain the records.

(d) (1) The Franchise Tax Board may apply the rules of paragraph (2) whether or not the board begins a proceeding to enforce a subpoena, or subpoena duces tecum, if subparagraphs (A), (B), and (C) apply:

(A) For purposes of determining the correct treatment under Part 11 (commencing with Section 23001) of the items described in subdivision (a), the Franchise Tax Board issues a subpoena or subpoena duces tecum to a bank or corporation to produce (either directly or as agent for the related party) any records or testimony.

(B) The subpoena or subpoena duces tecum is not quashed in a proceeding begun under paragraph (3) and is not determined to be invalid in a proceeding begun under Section 19504 to enforce the subpoena or subpoena duces tecum.

(C) The bank or corporation does not substantially comply in a timely manner with the subpoena or subpoena duces tecum and the Franchise Tax Board has sent by certified or registered mail a notice to that bank or corporation that it has not substantially complied.

(D) If the bank or corporation fails to maintain or fails to cause another to maintain records as required by subdivision (a), and by reason of that failure, the subpoena, or subpoena duces tecum, is quashed in a proceeding described in subparagraph (B) or the bank or corporation is not able to provide the records requested in the subpoena or subpoena duces tecum, the Franchise Tax Board may apply the rules of paragraph (2) to any of the items described in subdivision (a) to which the records relate.

(2) (A) All of the following shall be determined by the Franchise Tax Board in the Franchise Tax Board's sole discretion from the Franchise Tax Board's own knowledge or from information the Franchise Tax Board may obtain through testimony or otherwise:

(i) The components that are a part of one or more unitary businesses for purposes of determining the income derived from or attributable to this state pursuant to Section 25101 or 25110.

(ii) Amounts that are attributable to the classification of an item as business or nonbusiness income for purposes of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(iii) The apportionment factors for purposes of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11.

(iv) The correct amount of income under Section 882 of, or Subpart F of Part III of, Subchapter N of, or similar sections of, the Internal Revenue Code.

(B) This paragraph shall apply to determine the correct treatment of the items described in subdivision (a) unless the bank or corporation is authorized by its related parties (in the manner and at the time as the Franchise Tax Board shall prescribe) to act as the related parties' limited agent solely for purposes of applying Section 19504 with respect to any request by the Franchise Tax Board to examine records or produce testimony related to any item described

in subdivision (a) or with respect to any subpoena or subpoena duces tecum for the records or testimony. The appearance of persons or the production of records by reason of the bank or corporation being an agent shall not subject those persons or records to legal process for any purpose other than determining the correct treatment under Part 11 of the items described in subdivision (a).

(3) (A) Notwithstanding any other law or rule of law, any reporting bank or corporation to which the Franchise Tax Board issues a subpoena or subpoena duces tecum referred to in subparagraph (A) of paragraph (1) shall have the right to begin a proceeding to quash the subpoena or subpoena duces tecum not later than the 90th day after the subpoena or subpoena duces tecum was issued. In that proceeding, the Franchise Tax Board may seek to compel compliance with the subpoena or subpoena duces tecum.

(B) Notwithstanding any other law or rule of law, any reporting bank or corporation that has been notified by the Franchise Tax Board that it has determined that the bank or corporation has not substantially complied with a subpoena or subpoena duces tecum referred to in paragraph (1) shall have the right to begin a proceeding to review the determination not later than the 90th day after the day on which the notice referred to in subparagraph (C) of paragraph (1) was mailed. If the proceeding is not begun on or before the 90th day, the determination by the Franchise Tax Board shall be binding and shall not be reviewed by any court.

(C) The superior courts of the State of California for the Counties of Los Angeles, Sacramento, and San Diego, and for the City and County of San Francisco shall have jurisdiction to hear any proceeding brought under subparagraphs (A) and (B). Any order or other determination in the proceeding shall be treated as a final order that may be appealed.

(D) If any bank or corporation takes any action as provided in subparagraphs (A) and (B), the running of any period of limitations under Sections 19057 to 19064, inclusive (relating to the assessment and collection of tax), or under Section 19704 (relating to criminal prosecutions) with respect to that bank or corporation shall be suspended for the period during which the proceedings, and appeals therein, are pending. In no event shall any period expire before the 90th day after the day on which there is a final determination in the proceeding.

SEC. 4. Section 23081 of the Revenue and Taxation Code is amended to read:

23081. (a) For each taxable year beginning on or after January 1, 1988, every limited partnership doing business in this state (as defined by Section 23101) and required to file a return under former Section 17932 or Section 18633 shall pay annually to this state a tax for the privilege of doing business in this state in an amount equal to the applicable amount specified in Section 23153 for the current taxable year.

(b) In addition to any limited partnership that is doing business

in this state and therefore is subject to the tax imposed by subdivision (a), for each taxable year beginning on or after January 1, 1993, every limited partnership that has executed, acknowledged, and filed a certificate of limited partnership with the Secretary of State pursuant to Section 15621 of the Corporations Code, and every foreign limited partnership that has registered with the Secretary of State pursuant to Section 15692 of the Corporations Code, shall pay annually the tax prescribed in subdivision (a). The tax shall be paid for each taxable year, or part thereof, until a certificate of dissolution or certificate of cancellation is filed on behalf of the limited partnership with the office of the Secretary of State pursuant to Section 15623 of the Corporations Code.

(c) The tax imposed under this section shall be due and payable on the date the return is required to be filed under former Section 18432 or Section 18633.

(d) For purposes of this section, "limited partnership" means any partnership formed by two or more persons under the laws of this state or any other jurisdiction and having one or more general partners and one or more limited partners.

(e) Notwithstanding subdivision (b), any limited partnership that ceased doing business prior to January 1, 1993, filed a final return with the Franchise Tax Board for a taxable year ending before January 1, 1993, and files a certificate of dissolution or a certificate of cancellation with the Secretary of State pursuant to Section 15623 or 15696 of the Corporations Code by the later of December 31, 1994, or the date 90 days after the date of enactment of this act, shall not be subject to the tax imposed by this section.

(f) The amendments to this section by the act adding this subdivision shall apply to each taxable year beginning on or after January 1, 1993.

SEC. 5. Section 23456 of the Revenue and Taxation Code is amended to read:

23456. For purposes of this part, Section 56 of the Internal Revenue Code is modified as follows:

(a) (1) Section 56(a)(2) of the Internal Revenue Code, relating to mining exploration and development costs, shall apply only to expenses incurred during income years beginning on or after January 1, 1988.

(2) Section 56(a)(5) of the Internal Revenue Code, relating to pollution control facilities, shall apply only to amounts allowable as a deduction under Section 24372.3.

(b) Section 56(c)(2) of the Internal Revenue Code, relating to Merchant Marine Capital Construction Funds, shall not be applicable.

(c) For purposes of applying Section 56(d) of the Internal Revenue Code, all references to "December 31, 1986," are modified to read "December 31, 1987," and all references to "January 1, 1987," are modified to read "January 1, 1988."

(d) Section 56(d)(1) of the Internal Revenue Code, relating to

the alternative tax net operating loss deduction, is modified to include the provisions of Section 25108.

(e) For each income year beginning on or after January 1, 1988, and before January 1, 1990, Section 56(f)(2)(E) of the Internal Revenue Code, as it read during that period, is modified to refer to both of the following:

(1) Cooperatives under Section 24404 in lieu of the deduction allowed under Section 1382(b) of the Internal Revenue Code.

(2) Credit unions under Section 24405 as though the deduction allowed under Section 1382(b) of the Internal Revenue Code applied to credit unions.

(f) Section 56(g) of the Internal Revenue Code, relating to adjustments based on adjusted current earnings, is modified to provide that for corporations whose income is determined under Chapter 17 (commencing with Section 25101), adjusted current earnings shall be allocated and apportioned in the same manner as net income is allocated and apportioned for purposes of the regular tax. In addition, each of the following shall apply:

(1) Sections 56(g)(1)(A) and 56(g)(3) of the Internal Revenue Code are modified to provide that the term "adjusted current earnings" means the sum of the adjusted current earnings of that corporation apportionable to this state and the adjusted current earnings allocable to this state.

(2) Section 56(g)(1)(B) of the Internal Revenue Code is modified to provide that the term "alternative minimum taxable income" means the sum of the alternative minimum taxable income of that corporation apportionable to this state and the alternative minimum taxable income allocable to this state.

(g) Section 56(g)(4)(A) of the Internal Revenue Code is modified to provide the following:

(1) In the case of any property placed in service on or after January 1, 1981, and prior to January 1, 1987, other than residential rental property for which an election was made under former Section 24349.5, the amount allowable as depreciation or amortization with respect to that property shall be the same amount that would have been allowable for the income year had the taxpayer depreciated the property under the straight line method for each income year of the useful life (determined without regard to Section 24354.2) for which the taxpayer has held the property.

(2) In the case of any property placed in service on or after January 1, 1987, and prior to January 1, 1990, other than residential rental property for which an election was made under former Section 24349.5, the amount allowable as depreciation or amortization with respect to that property shall be determined by each of the following:

(A) Taking into account the adjusted basis of that property (as determined for purposes of computing alternative minimum taxable income) as of the close of the last income year beginning before January 1, 1990.

(B) Using the straight line method over the remainder of the recovery period applicable to that property under the alternative system of Section 168(g) of the Internal Revenue Code.

(3) The amendments made to paragraph (2) by the act adding this paragraph shall apply to income years beginning on or after January 1, 1990.

(h) (1) Section 56(g)(4)(C) of the Internal Revenue Code, relating to disallowance of items not deductible in computing earnings and profits, shall be modified as follows:

(A) (i) A deduction shall be allowed for amounts allowable as a deduction for purposes of the regular tax under Sections 24402, 24410, 24411, and 25106.

(ii) For each income year beginning on or after January 1, 1990, a deduction shall be allowed for amounts allowable as a deduction to a credit union for purposes of the regular tax under Section 24405.

(B) Section 56(g)(4)(C)(ii) of the Internal Revenue Code, relating to special rule for 100 percent dividends, shall not be applicable.

(C) Section 56(g)(4)(C)(iii) of the Internal Revenue Code, relating to special rule for dividends from Section 936 companies, shall not be applicable.

(D) Section 56(g)(4)(C)(iv) of the Internal Revenue Code, relating to special rule for certain dividends received by certain cooperatives, shall not be applicable.

(2) Section 56(g)(4)(D)(ii) of the Internal Revenue Code is modified to specify that Sections 24364 and 24407 shall not apply to expenditures paid or incurred in income years beginning on or after January 1, 1990.

(3) With respect to corporations which are not subject to the tax imposed under Chapter 2 (commencing with Section 23101), the amount of interest income included in the adjusted current earnings shall not exceed the amount of interest income included for purposes of the regular tax.

(4) Appropriate adjustments shall be made to limit deductions from adjusted current earnings for interest expense in accordance with the provisions of Sections 24344 and 24425.

SEC. 6. Section 24357.1 of the Revenue and Taxation Code is amended to read:

24357.1. (a) The amount of any charitable contribution of property otherwise taken into account under Section 24357 shall be reduced by the amount of gain that would have been realized if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of that contribution).

(b) For purposes of subdivision (a), in the case of a charitable contribution of less than the taxpayer's entire interest in the property contributed, the taxpayer's adjusted basis in that property shall be allocated between the interest contributed and any interest not contributed in accordance with regulations prescribed by the Franchise Tax Board.

SEC. 7. Section 24416 of the Revenue and Taxation Code is amended to read:

24416. Except as provided in Sections 24416.1 and 24416.2, a net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Net operating losses attributable to income years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any income year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that 50 percent of the entire amount of the net operating loss for any income year shall not be eligible for carryover to any subsequent income year.

(2) For each income year beginning on or after January 1, 1994, 100 percent of a net operating loss of a new business incurred during the first three years of operation may be carried forward as provided in paragraph (2) of subdivision (e).

(3) For each income year beginning on or after January 1, 1994, 100 percent of a net operating loss of an eligible taxpayer may be carried forward to the income years specified in paragraph (1) of subdivision (e).

(c) For any income year in which the taxpayer has in effect a water's edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that the net operating loss carryover was determined by taking into account the income and factors of an affiliated bank or corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's edge election under Section 25110 had been in effect for the income year in which the loss was incurred.

(d) Net operating loss carrybacks shall not be allowed.

(e) (1) Except as provided in paragraphs (2), (3), and (4), for each income year beginning on or after January 1, 1987, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute "five income years" in lieu of "15 taxable years."

(2) In the case of a "new business," the "five income years" referred to in paragraph (1) shall be modified to read as follows:

(A) "Eight income years" for a net operating loss attributable to the first income year of that new business.

(B) "Seven income years" for a net operating loss attributable to the second income year of that new business.

(C) "Six income years" for a net operating loss attributable to the third income year of that new business.

(3) For any carryover of a net operating loss for which a deduction

is denied by Section 24416.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to income years beginning in 1991.

(B) By two years for a net operating loss attributable to income years beginning prior to January 1, 1991.

(4) The net operating loss attributable to income years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 income years following the year of the loss if it is incurred by a bank or corporation that was either of the following:

(A) Under the jurisdiction of the court in a Title 11 or similar case at any time prior to January 1, 1994. The loss carryover provided in the preceding sentence shall not apply to any loss incurred in an income year after the income year during which the bank or corporation is no longer under the jurisdiction of the court in a Title 11 or similar case.

(B) In receipt of assets acquired in a transaction that qualifies as a tax-free reorganization under Section 368(a)(1)(G) of the Internal Revenue Code.

(f) For purposes of this section:

(1) "Eligible taxpayer" means a taxpayer that has total receipts of less than one million dollars ($1,000,000) during the income year.

(2) "New business" means any trade or business that is organized or formed and first commences business activity in this state on or after January 1, 1994. Notwithstanding the preceding sentence, the term "new business" does not include any trade or business that was used in any predecessor trade or business conducted by the taxpayer or any other taxpayer related to the taxpayer (within the meaning of Sections 267 and 318 of the Internal Revenue Code).

(3) "Title 11 or similar case" shall have the meaning as defined in Section 368(a)(3) of the Internal Revenue Code.

(4) "Total receipts" means gross income, as defined in Section 24271, plus the cost of goods sold that are paid or incurred in connection with a trade or business of the taxpayer.

(g) The amendments to this section by the act adding this subdivision shall apply only in the computation of taxes for each income year beginning on or after January 1, 1993.

(h) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), Section 25108 shall apply to each of the following:

(1) The amount of net operating loss incurred in any income year which may be carried forward to another income year.

(2) The amount of any loss carryforward which may be deducted in any income year.

(i) The provisions of Section 172(b)(1)(K) of the Internal Revenue Code, relating to bad debt losses of commercial banks, shall not be applicable.

SEC. 8. Section 25108 of the Revenue and Taxation Code is

amended to read:

25108. (a) For corporations whose income is subject to the provisions of Section 25101 or 25101.15, the net operating loss determined in accordance with Section 172 of the Internal Revenue Code for a particular income year shall be the corporation's "net loss for state purposes" as defined in subdivision (c).

(b) The net operating loss deduction allowed by Sections 24416, 24416.1, and 24416.2, for an income year shall be deducted from "net income for state purposes" (as defined in subdivision (c)) for that income year.

(c) "Net income (loss) for state purposes" means the sum of the net income or loss of that corporation apportionable to this state and the income or loss allocable to this state as nonbusiness income, as provided by Chapter 17 (commencing with Section 25101).

SEC. 9. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 949

An act to amend Sections 17276, 23609, and 24416 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 17276 of the Revenue and Taxation Code is amended to read:

17276. Except as provided in Sections 17276.1 and 17276.2, the deduction provided by Section 172 of the Internal Revenue Code, relating to a net operating loss deduction, shall be modified as follows:

(a) (1) Net operating losses attributable to taxable years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any taxable year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that 50 percent of the entire amount of the net operating loss for any taxable year shall not be eligible for carryover to any subsequent taxable year.

(2) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a new business during that taxable year, each of the following shall apply to each loss incurred during the first three taxable years of

operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in paragraph (2) of subdivision (d).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in paragraph (2) of subdivision (d).

(ii) With respect to the portion of the net operating loss which exceeds the net loss from the new business, 50 percent of that amount shall be a net operating loss carryover to each of the five taxable years following the taxable year of the loss.

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates an eligible small business during that taxable year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the taxable years specified in paragraph (1) of subdivision (d).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward to each of the five taxable years following the taxable year of the loss.

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the eligible small business, 50 percent of that amount shall be a net operating loss carryover to each of the five taxable years following the taxable year of the loss.

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small business under this section, that business shall be treated as a new business for the first three taxable years of the new business.

(5) In the case of a taxpayer who has a net operating loss in a taxable year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under

this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of that paragraph, paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, the term "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) Net operating loss carrybacks shall not be allowed.

(d) (1) Except as provided in paragraphs (2) and (3), for each taxable year beginning on or after January 1, 1987, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute "five taxable years" in lieu of "15 taxable years."

(2) In the case of a "new business," the "five taxable years" in paragraph (1) shall be modified to read as follows:

(A) "Eight taxable years" for a net operating loss attributable to the first taxable year of that new business.

(B) "Seven taxable years" for a net operating loss attributable to the second taxable year of that new business.

(C) "Six taxable years" for a net operating loss attributable to the third taxable year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 17276.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to taxable years beginning in 1991.

(B) By two years for a net operating loss attributable to taxable years beginning prior to January 1, 1991.

(4) The net operating loss attributable to taxable years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 taxable years following the year of the loss if it is incurred by a taxpayer that is under the jurisdiction of the court in a Title 11 or similar case at any time during the income year. The loss carryover provided in the preceding sentence shall not apply to any loss incurred after the date the taxpayer is no longer under the jurisdiction of the court in a Title 11 or similar case.

(e) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the taxable year.

(2) Except as provided in subdivision (f), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a)(3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a

partnership or S corporation, paragraphs (1) and (2) shall be applied to the partnership or S corporation.

(f) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer or partnership purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer or partnership (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer or partnership (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer or partnership (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first taxable year in which the taxpayer or partnership (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer or partnership (or related person).

(2) In any case where a taxpayer or partnership (or any related person) is engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's or partnership's (or any related person's) current or prior trade or business activities.

(3) In any case where a taxpayer or partnership, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer or partnership first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or

business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer or partnership as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) The term "related person" shall mean any person that is related to either the taxpayer or partnership under either Section 267 or 318 of the Internal Revenue Code.

(6) The term "acquire" shall include any gift, inheritance, transfer incident to divorce, or any other transfer, whether or not for consideration.

(g) In computing the modifications under Section 172(d)(2) of the Internal Revenue Code, relating to capital gains and losses of taxpayers other than corporations, the exclusion provided by Section 18152.5 shall not be allowed.

(h) Notwithstanding any provisions of this section, a deduction shall be allowed to a "qualified taxpayer" as provided in Sections 17276.1 and 17276.2.

(i) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(j) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is necessary to prevent evasion of the purposes of this section.

SEC. 2. Section 23609 of the Revenue and Taxation Code is amended to read:

23609. For each income year beginning on or after January 1, 1987, there shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) (1) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "8 percent."

(2) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read "12 percent."

(b) "Qualified research" and "basic research" shall include only research conducted in California.

(c) The provisions of Section 41(e)(7)(A) of the Internal Revenue Code, shall be modified so that "basic research," for purposes of this section, includes any basic or applied research including scientific inquiry or original investigation for the advancement of scientific or engineering knowledge or the improved effectiveness of commercial products, except that the term does not include any of the following:

(1) Basic research conducted outside California.

(2) Basic research in the social sciences, arts, or humanities.

(3) Basic research for the purpose of improving a commercial product if the improvements relate to style, taste, cosmetic, or seasonal design factors.

(4) Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(d) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(e) Section 41(c)(5) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sales to customers in the ordinary course of the taxpayer's trade or business that is delivered or shipped to a purchaser within this state, regardless of F.O.B. point or other conditions of sale.

(f) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(g) Except as provided in subdivision (h), the amendments to this section made by the act adding this subdivision shall apply only to income years beginning on or after January 1, 1993.

(h) The amendments made by Section 13112 of the Revenue Reconciliation Act of 1993 (P.L. 103-66) to Section 41 of the Internal Revenue Code (related to the credit for increased research activities) shall apply to income years beginning on or after January 1, 1994.

SEC. 3. Section 23609 of the Revenue and Taxation Code is amended to read:

23609. For each income year beginning on or after January 1, 1987, there shall be allowed as a credit against the "tax" (as defined by Section 23036) an amount determined in accordance with Section 41 of the Internal Revenue Code, except as follows:

(a) (1) The reference to "20 percent" in Section 41(a)(1) of the Internal Revenue Code is modified to read "8 percent."

(2) The reference to "20 percent" in Section 41(a)(2) of the Internal Revenue Code is modified to read "12 percent."

(b) "Qualified research" and "basic research" shall include only research conducted in California.

(c) The provisions of Section 41(e)(7)(A) of the Internal Revenue Code, shall be modified so that "basic research," for purposes of this section, includes any basic or applied research including scientific inquiry or original investigation for the advancement of scientific or engineering knowledge or the improved effectiveness of commercial products, except that the term does not include any of the following:

(1) Basic research conducted outside California.

(2) Basic research in the social sciences, arts, or humanities.

(3) Basic research for the purpose of improving a commercial

product if the improvements relate to style, taste, cosmetic, or seasonal design factors.

(4) Any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas).

(d) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(e) Section 41(c)(5) of the Internal Revenue Code, relating to gross receipts, is modified to take into account only those gross receipts from the sale of property held primarily for sales to customers in the ordinary course of the taxpayer's trade or business that is delivered or shipped to a purchaser within this state, regardless of F.O.B. point or other conditions of sale.

(f) Section 41(h) of the Internal Revenue Code, relating to termination, shall not apply.

(g) Except as provided in subdivision (h), the amendments to this section made by the act adding this subdivision shall apply only to income years beginning on or after January 1, 1993.

(h) The amendments made by Section 13112 of the Revenue Reconciliation Act of 1993 (P.L. 103-66) to Section 41 of the Internal Revenue Code (related to the credit for increased research activities) shall apply to income years beginning on or after January 1, 1994.

(i) Section 41(g) of the Internal Revenue Code, relating to special rule for pass-thru of credit, is modified by each of the following:

(1) The last sentence shall not apply.

(2) If the amount determined under Section 41(a) of the Internal Revenue Code for any income year exceeds the limitation of Section 41(g) of the Internal Revenue Code, that amount may be carried over to other income years under the rules of subdivision (d), except that the limitation of Section 41(g) of the Internal Revenue Code shall be taken into account in each subsequent income year.

SEC. 4. Section 24416 of the Revenue and Taxation Code is amended to read:

24416. Except as provided in Sections 24416.1 and 24416.2, a net operating loss deduction shall be allowed in computing net income under Section 24341 and shall be determined in accordance with Section 172 of the Internal Revenue Code, except as otherwise provided.

(a) (1) Net operating losses attributable to income years beginning before January 1, 1987, shall not be allowed.

(2) A net operating loss shall not be carried forward to any income year beginning before January 1, 1987.

(b) (1) Except as provided in paragraphs (2) and (3), the provisions of Section 172(b)(2) of the Internal Revenue Code, relating to the amount of carryovers, shall be modified so that 50 percent of the entire amount of the net operating loss for any income

year shall not be eligible for carryover to any subsequent income year.

(2) In the case of a taxpayer who has a net operating loss in an income year beginning on or after January 1, 1994, and who operates a new business during that income year, each of the following shall apply to each loss incurred during the first three income years of operating the new business:

(A) If the net operating loss is equal to or less than the net loss from the new business, 100 percent of the net operating loss shall be carried forward as provided in paragraph (2) of subdivision (e).

(B) If the net operating loss is greater than the net loss from the new business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the new business, 100 percent of that amount shall be carried forward as provided in paragraph (2) of subdivision (e).

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the new business, 50 percent of that amount shall be a net operating loss carryover to each of the five taxable years following the taxable year of the loss.

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(3) In the case of a taxpayer who has a net operating loss in an income year beginning on or after January 1, 1994, and who operates an eligible small business during that income year, each of the following shall apply:

(A) If the net operating loss is equal to or less than the net loss from the eligible small business, 100 percent of the net operating loss shall be carried forward to the income years specified in paragraph (1) of subdivision (e).

(B) If the net operating loss is greater than the net loss from the eligible small business, the net operating loss shall be carried over as follows:

(i) With respect to an amount equal to the net loss from the eligible small business, 100 percent of that amount shall be carried forward to each of the five income years following the income year of the loss.

(ii) With respect to the portion of the net operating loss that exceeds the net loss from the eligible small business, 50 percent of that amount shall be a net operating loss carryover to each of the five income years following the income year of the loss.

(C) For purposes of Section 172(b)(2) of the Internal Revenue Code, the amount described in clause (ii) of subparagraph (B) shall be absorbed before the amount described in clause (i) of subparagraph (B).

(4) In the case of a taxpayer who has a net operating loss in an income year beginning on or after January 1, 1994, and who operates a business that qualifies as both a new business and an eligible small

business under this section, that business shall be treated as a new business for the first three income years of the new business.

(5) In the case of a taxpayer who has a net operating loss in an income year beginning on or after January 1, 1994, and who operates more than one business, and more than one of those businesses qualifies as either a new business or an eligible small business under this section, paragraph (2) shall be applied first, except that if there is any remaining portion of the net operating loss after application of clause (i) of subparagraph (B) of paragraph (2), paragraph (3) shall be applied to the remaining portion of the net operating loss as though that remaining portion of the net operating loss constituted the entire net operating loss.

(6) For purposes of this section, "net loss" means the amount of net loss after application of Sections 465 and 469 of the Internal Revenue Code.

(c) For any income year in which the taxpayer has in effect a water's edge election under Section 25110, the deduction of a net operating loss carryover shall be denied to the extent that the net operating loss carryover was determined by taking into account the income and factors of an affiliated bank or corporation in a combined report whose income and apportionment factors would not have been taken into account if a water's edge election under Section 25110 had been in effect for the income year in which the loss was incurred.

(d) Net operating loss carrybacks shall not be allowed.

(e) (1) Except as provided in paragraphs (2), (3), and (4), for each income year beginning on or after January 1, 1987, Section 172(b)(1)(A)(ii) of the Internal Revenue Code, relating to years to which net operating losses may be carried, is modified to substitute "five income years" in lieu of "15 taxable years."

(2) In the case of a "new business," the "five income years" referred to in paragraph (1) shall be modified to read as follows:

(A) "Eight income years" for a net operating loss attributable to the first income year of that new business.

(B) "Seven income years" for a net operating loss attributable to the second income year of that new business.

(C) "Six income years" for a net operating loss attributable to the third income year of that new business.

(3) For any carryover of a net operating loss for which a deduction is denied by Section 24416.3, the carryover period specified in this subdivision shall be extended as follows:

(A) By one year for a net operating loss attributable to income years beginning in 1991.

(B) By two years for a net operating loss attributable to income years beginning prior to January 1, 1991.

(4) The net operating loss attributable to income years beginning on or after January 1, 1987, and before January 1, 1994, shall be a net operating loss carryover to each of the 10 income years following the year of the loss if it is incurred by a bank or corporation that was

either of the following:

(A) Under the jurisdiction of the court in a Title 11 or similar case at any time prior to January 1, 1994. The loss carryover provided in the preceding sentence shall not apply to any loss incurred in an income year after the income year during which the bank or corporation is no longer under the jurisdiction of the court in a Title 11 or similar case.

(B) In receipt of assets acquired in a transaction that qualifies as a tax-free reorganization under Section 368(a) (1) (G) of the Internal Revenue Code.

(f) For purposes of this section:

(1) "Eligible small business" means any trade or business that has gross receipts, less returns and allowances, of less than one million dollars ($1,000,000) during the income year.

(2) Except as provided in subdivision (g), "new business" means any trade or business activity that is first commenced in this state on or after January 1, 1994.

(3) "Title 11 or similar case" shall have the same meaning as in Section 368(a) (3) of the Internal Revenue Code.

(4) In the case of any trade or business activity conducted by a partnership or an S corporation, paragraphs (1) and (2) shall be applied to the partnership or S corporation.

(g) For purposes of this section, in determining whether a trade or business activity qualifies as a new business under paragraph (2) of subdivision (e), the following rules shall apply:

(1) In any case where a taxpayer purchases or otherwise acquires all or any portion of the assets of an existing trade or business (irrespective of the form of entity) that is doing business in this state (within the meaning of Section 23101), the trade or business thereafter conducted by the taxpayer (or any related person) shall not be treated as a new business if the aggregate fair market value of the acquired assets (including real, personal, tangible, and intangible property) used by the taxpayer (or any related person) in the conduct of its trade or business exceeds 20 percent of the aggregate fair market value of the total assets of the trade or business being conducted by the taxpayer (or any related person). For purposes of this paragraph only, the following rules shall apply:

(A) The determination of the relative fair market values of the acquired assets and the total assets shall be made as of the last day of the first income year in which the taxpayer (or any related person) first uses any of the acquired trade or business assets in its business activity.

(B) Any acquired assets that constituted property described in Section 1221(1) of the Internal Revenue Code in the hands of the transferor shall not be treated as assets acquired from an existing trade or business, unless those assets also constitute property described in Section 1221(1) of the Internal Revenue Code in the hands of the acquiring taxpayer (or related person).

(2) In any case where a taxpayer (or any related person) is

engaged in one or more trade or business activities in this state, or has been engaged in one or more trade or business activities in this state within the preceding 36 months ("prior trade or business activity"), and thereafter commences an additional trade or business activity in this state, the additional trade or business activity shall only be treated as a new business if the additional trade or business activity is classified under a different division of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, than are any of the taxpayer's (or any related person's) current or prior trade or business activities.

(3) In any case where a taxpayer, including all related persons, is engaged in trade or business activities wholly outside of this state and the taxpayer first commences doing business in this state (within the meaning of Section 23101) after December 31, 1993 (other than by purchase or other acquisition described in paragraph (1)), the trade or business activity shall be treated as a new business under paragraph (2) of subdivision (e).

(4) In any case where the legal form under which a trade or business activity is being conducted is changed, the change in form shall be disregarded and the determination of whether the trade or business activity is a new business shall be made by treating the taxpayer as having purchased or otherwise acquired all or any portion of the assets of an existing trade or business under the rules of paragraph (1) of this subdivision.

(5) The term "related person" shall mean any person that is related to the taxpayer under either Section 267 or 318 of the Internal Revenue Code.

(6) The term "acquire" shall include any transfer, whether or not for consideration.

(h) For purposes of corporations whose net income is determined under Chapter 17 (commencing with Section 25101), Section 25108 shall apply to each of the following:

(1) The amount of net operating loss incurred in any income year which may be carried forward to another income year.

(2) The amount of any loss carryforward which may be deducted in any income year.

(i) The provisions of Section 172(b)(1)(K) of the Internal Revenue Code, relating to bad debt losses of commercial banks, shall not be applicable.

(j) The Franchise Tax Board may prescribe appropriate regulations to carry out the purposes of this section, including any regulations necessary to prevent the avoidance of the purposes of this section through splitups, shell corporations, partnerships, tiered ownership structures, or otherwise.

(k) The Franchise Tax Board may reclassify any net operating loss carryover determined under either paragraph (2) or (3) of subdivision (b) as a net operating loss carryover under paragraph (1) of subdivision (b) upon a showing that the reclassification is

necessary to prevent evasion of the purposes of this section.

SEC. 5. Section 3 of this bill incorporates amendments to Section 23609 of the Revenue and Taxation Code proposed by both this bill and SB 1805. Section 3 shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) each bill amends Section 23609 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1805, in which case Section 2 of this bill shall not become operative.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 950

An act to amend Sections 1502 and 1520.5 of, and to add Sections 1502.3 and 1523.5 to, the Health and Safety Code, and to amend Section 16501 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. (a) It is the intent of the Legislature to strengthen the operation of public children's shelters for abused and neglected children in California.

(b) The Legislature finds and declares all of the following:

(1) County welfare departments and county children's services departments are required to maintain an emergency shelter capability by law and by the regulations of the State Department of Social Services.

(2) In recent years there has been a dramatic increase in the number of children requiring protection by the child welfare system.

(3) The severity of child abuse and neglect cases, including sexual abuse and substance abuse cases, coming to the attention of child protective agencies has also increased.

(4) Priority attention must be given to the availability of public children's shelter care facilities to accommodate the need for nonpermanent placement resources for adolescents, drug-exposed infants, and other hard-to-place children.

(5) There are insufficient numbers of foster home providers who are willing to be on 24-hour call for emergency placement.

(6) There are insufficient numbers of private residential care programs to provide a temporary protective environment for the numbers of emotionally disturbed children who need those programs.

(7) The length of stay in a shelter care facility should be determined by the needs of the child and the availability of

alternative resources, rather than the funding mechanism for the facility.

(c) It is the intent of the Legislature to ensure that public children's shelters provide a safe, clean, and quality environment for children in need of protective services for the length of time necessary to locate appropriate out-of-home placement, or until the child is released to a parent or relative.

SEC. 2. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility that provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) "Foster family agency" means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility, in the

licensee's family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) "Social rehabilitation facility" means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(11) "Transitional shelter care facility" means any group care facility that provides for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Program components shall be subject to program standards developed by the State Department of Social Services pursuant to Section 1502.3.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 3. Section 1502.3 is added to the Health and Safety Code, to read:

1502.3. For purposes of this chapter, a "community care facility," pursuant to Section 1502, includes a transitional shelter care facility. A "transitional shelter care facility" means a short-term residential care program that meets all of the following requirements:

(a) It is owned by the county, and operated by the county or by a private nonprofit organization under contract to the county.

(b) It is a group care facility that provides for 24-hour nonmedical care of persons, under 18 years of age, who are in need of personal services, supervision, or assistance that is essential for sustaining the activities of daily living, or for the protection of the individual on a short-term basis. As used in this section, "short-term" means up to 90 days from the date of admission.

(c) It is for the sole purpose of providing care for children who have been removed from their homes as a result of abuse or neglect, or both; for children who have been adjudged wards of the court; and, for children who are seriously emotionally disturbed children. For purposes of this subdivision, "abuse or neglect" means the same as defined in Section 300 of the Welfare and Institutions Code. For purposes of this subdivision, "wards of the court" means the same as defined in Section 602 of the Welfare and Institutions Code. For purposes of this subdivision, "seriously emotionally disturbed children" means the same as defined in subdivision (a) of Section 5600.3 of the Welfare and Institutions Code.

(d) It primarily serves children who have previously been placed in a community care facility and are awaiting placement into a different community care facility that is appropriate to their needs. Children residing in transitional shelter care facilities may include children who are very difficult to place in appropriate community care facilities because of factors which may be present in combination, including: threatening, aggressive, suicide, runaway or destructive behaviors and behaviors as defined in Section 5600.3 of the Welfare and Institutions Code.

(e) Based upon an agreement with the county, the licensee shall agree to accept, for placement into its transitional shelter care program, all children referred by the county.

(f) The licensee shall not discharge any child without the permission of the county, except when a child:

(1) Commits an unlawful act and the child must be detained in a juvenile institution.

(2) Requires either of the following:

(A) Physical health care in an acute care hospital.

(B) Mental health services in an acute psychiatric hospital.

(g) The licensee shall provide a program that is designed to be flexible enough to care for a highly variable population size and shall allow for the special needs of sibling groups.

SEC. 4. Section 1520.5 of the Health and Safety Code is amended to read:

1520.5. (a) The Legislature hereby declares it to be the policy of the state to prevent overconcentrations of residential care facilities which impair the integrity of residential neighborhoods. Therefore, the director shall deny an application for a new residential care facility license if the director determines that the location is in a proximity to an existing residential care facility that would result in overconcentration.

(b) As used in this section, "overconcentration" means that if a new license is issued, there will be residential care facilities which are separated by a distance of 300 feet or less, as measured from any point upon the outside walls of the structures housing those facilities. Based on special local needs and conditions, the director may approve a separation distance of less than 300 feet with the approval of the city or county in which the proposed facility will be located.

(c) At least 45 days prior to approving any application for a new residential care facility, the director, or county licensing agency, shall notify, in writing, the city or county planning authority in which the facility will be located, of the proposed location of the facility.

(d) Any city or county may request denial of the license applied for on the basis of overconcentration of residential care facilities.

(e) Nothing in this section authorizes the director, on the basis of overconcentration, to refuse to grant a license upon a change of ownership of an existing residential care facility where there is no change in the location of the facility.

(f) Foster family homes and residential care facilities for the elderly shall not be considered in determining overconcentration of residential care facilities, and license applications for those facilities shall not be denied upon the basis of overconcentration.

(g) Any transitional shelter care facility as defined in paragraph (11) of subdivision (a) of Section 1502 shall not be considered in determining overconcentration of residential care facilities, and license applications for those facilities shall not be denied upon the basis of overconcentration.

SEC. 5. Section 1523.5 is added to the Health and Safety Code, to read:

1523.5. Transitional shelter care facilities, as defined in Section 1502.3, shall be exempt from the fees imposed pursuant to subdivision

(a) of Section 1523.

SEC. 6. Section 16501 of the Welfare and Institutions Code is amended to read:

16501. (a) As used in this chapter, "child welfare services" means public social services which are directed toward the accomplishment of any or all the following purposes: protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; restoring to their families children who have been removed, by the provision of services to the child and the families; identifying children to be placed in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption.

"Child welfare services" also means services provided on behalf of children alleged to be the victims of child abuse, neglect, or exploitation. The child welfare services provided on behalf of each child represent a continuum of services, including emergency response services, family preservation services, family maintenance services, family reunification services, and permanent placement services. The individual child's case plan is the guiding principle in the provision of these services. The case plan shall be developed within 30 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the jurisdictional hearing pursuant to Section 356, whichever comes first.

(1) Child welfare services may include, but are not limited to, a range of service-funded activities, including case management, counseling, emergency shelter care, emergency in-home caretakers, temporary in-home caretakers, respite care, therapeutic day services, teaching and demonstrating homemakers, parenting training, substance abuse testing, and transportation. These service-funded activities shall be available to children and their families in all phases of the child welfare program in accordance with the child's case plan and departmental regulations. Funding for services is limited to the amount appropriated in the annual Budget Act and other available county funds.

(2) Service-funded activities to be provided may be determined by each county, based upon individual child and family needs as reflected in the service plan.

(3) As used in this chapter, "emergency shelter care" means emergency shelter provided to children who have been removed pursuant to Section 300 from their parent or parents or their

guardian or guardians. The department may establish, by regulation, the time periods for which emergency shelter care shall be funded. For the purposes of this paragraph, "emergency shelter care" may include "transitional shelter care facilities" as defined in paragraph (11) of subdivision (a) of Section 1502 of the Health and Safety Code.

(b) As used in this chapter, "respite care" means temporary care for periods not to exceed 72 hours. This care may be provided to the child's parents or guardians. This care shall not be limited by regulation to care over 24 hours. These services shall not be provided for the purpose of routine, ongoing child care.

(c) The county shall provide child welfare services as needed pursuant to an approved service plan and in accordance with regulations promulgated, in consultation with the counties, by the department. Counties may contract for service-funded activities as defined in paragraph (1) of subdivision (a). Each county shall use available private child welfare resources prior to developing new county-operated resources when the private child welfare resources are of at least equal quality and lesser or equal cost as compared with county-operated resources. Counties shall not contract for needs assessment, client eligibility determination, or any other activity as specified by regulations of the State Department of Social Services.

(d) Nothing in this chapter shall be construed to affect duties which are delegated to probation officers pursuant to Sections 601 and 654.

(e) Any county may utilize volunteer individuals to supplement professional child welfare services by providing ancillary support services in accordance with regulations adopted by the State Department of Social Services.

(f) As used in this chapter, emergency response services consist of a response system providing in-person response, 24 hours a day, seven days a week, to reports of abuse, neglect, or exploitation, as required by Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of investigation pursuant to Section 11166 of the Penal Code and to determine the necessity for providing initial intake services and crisis intervention to maintain the child safely in his or her own home or to protect the safety of the child. County welfare departments shall respond to any report of imminent danger to a child immediately and all other reports within 10 calendar days. An in-person response is not required when the county welfare department, based upon an evaluation of risk, determines that an in-person response is not appropriate. This evaluation includes collateral, contacts, a review of previous referrals, and other relevant information, as indicated.

(g) As used in this chapter, family maintenance services are activities designed to provide in-home protective services to prevent or remedy neglect, abuse, or exploitation, for the purposes of preventing separation of children from their families.

(h) As used in this chapter, family reunification services are activities designed to provide time-limited foster care services to

prevent or remedy neglect, abuse, or exploitation, when the child cannot safely remain at home, and needs temporary foster care, while services are provided to reunite the family.

(i) As used in this chapter, permanent placement services are activities designed to provide an alternate permanent family structure for children who because of abuse, neglect, or exploitation cannot safely remain at home and who are unlikely to ever return home. These services shall be provided on behalf of children for whom there has been a judicial determination of a permanent plan for adoption, legal guardianship, or long-term foster care.

(j) As used in this chapter, family preservation services include those services specified in Section 16500.5 to avoid or limit out-of-home placement of children, and may include those services specified in that section to place children in the least restrictive environment possible.

CHAPTER 951

An act to amend Section 11906 of the Insurance Code, relating to insurance.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 11906 of the Insurance Code is amended to read:

11906. This chapter shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

CHAPTER 952

An act to amend Section 17001.5 of the Welfare and Institutions Code, relating to general assistance.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 17001.5 of the Welfare and Institutions Code is amended to read:

17001.5. (a) Notwithstanding any other provision of law, including, but not limited to, Section 17000.5, the board of supervisors of each county, or the agency authorized by the county charter, may

do any of the following:

(1) (A) Adopt residency requirements for purposes of determining a persons' eligibility for general assistance. Any residence requirement under this paragraph shall not exceed 15 days.

(B) Nothing in this paragraph shall be construed to authorize the adoption of a requirement that an applicant or recipient have an address or to require a homeless person to acquire an address.

(2) Discontinue aid under this part for a period of not more than 180 days with respect to any recipient who is able-bodied and mentally competent and has received aid under this part for three months if the recipient engages in any of the following conduct:

(A) Fails, or refuses, without good cause, to participate in a qualified job training program, participation of which is a condition of receipt of assistance.

(B) After completion of a job training program, fails, or refuses, without good cause, to accept an offer of appropriate employment.

(C) Persistently fails, or refuses, without good cause, to cooperate with the county in its efforts to do any of the following:

(i) Enroll the recipient in a job training program.

(ii) After completion of a job training program, locate and secure appropriate employment for the recipient.

(D) For purposes of this paragraph, lack of good cause may be demonstrated by a showing of any of the following:

(i) The willful failure, or refusal, of the recipient to participate in a job training program, accept appropriate employment, or cooperate in enrolling in a training program or locating employment.

(ii) Not less than three separate acts of negligent failure of the recipient to engage in any of the activities described in clause (i).

(4) Notwithstanding paragraph (3), discontinue aid to, or sanction, recipients for failure or refusal without good cause to follow program requirements. For purposes of this subdivision, lack of good cause may be demonstrated by a showing of either (A) willful failure or refusal of the recipient to follow program requirements, or (B) not less than three separate acts of negligent failure of the recipient to follow program requirements.

(b) (1) The Legislative Analyst shall conduct an evaluation of the impact of this section on general assistance recipients and applicants.

(2) The evaluation required by paragraph (1) shall include, but need not be limited to, all of the following:

(A) The impact on the extent of homelessness among applicants and recipients of general assistance.

(B) The rate at which recipients of general assistance are sanctioned by county welfare departments.

(C) The impact of the 15-day residency requirement on applicants or recipients of general assistance, including how often the requirement is invoked.

(3) The Legislative Analyst shall, in the conduct of the study

required by this section, consult with the State Department of Social Services, the County Welfare Directors Association, and organizations that advocate on behalf of recipients of general assistance.

(c) This section shall remain in effect until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1997, deletes or extends that date.

CHAPTER 953

An act to amend Section 4068 of the Family Code, and to amend Sections 11475.1, 11478.2, 16575, 16576, 16576.5, and 16577 of the Welfare and Institutions Code, relating to family law.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 4068 of the Family Code is amended to read:

4068. (a) The Judicial Council may develop the following:

(1) Model worksheets to assist parties in determining the approximate amount of child support due under the formula provided in subdivision (a) of Section 4055 and the approximate percentage of time each parent has primary physical responsibility for the children.

(2) A form to assist the courts in making the findings and orders required by this article.

(b) The Judicial Council, in consultation with representatives of the State Department of Social Services, the California Family Support Council, the Senate Judiciary Committee, the Assembly Judiciary Committee, the Family Law Section of the State Bar of California, a legal services organization providing representation on child support matters, a custodial parent group, and a noncustodial parent group, shall develop a simplified income and expense form for determining child support under the formula provided in subdivision (a) of Section 4055, by June 1, 1995. The Judicial Council, also in consultation with these groups, shall develop factors to use to determine when the simplified income and expense form may be used and when the standard income and expense form must be used.

SEC. 2. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. (a) Each county shall maintain a single organizational unit located in the office of the district attorney which shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out

of wedlock. The district attorney shall take appropriate action, both civil and criminal, to establish, modify, and enforce child support and when appropriate enforce spousal support orders when the child is receiving public assistance, including Medi-Cal, and, when appropriate, to take the same actions on behalf of a child who is not receiving public assistance, including Medi-Cal.

(b) To the extent required by federal law, actions brought by the district attorney to establish or enforce support obligations in all cases, other than paternity cases or those cases involving complex issues, shall be completed within the following time limits: (1) 90 percent of the actions shall be completed within three months from the date of service; (2) 98 percent of the actions shall be completed within six months from the date of service; and (3) 100 percent of the actions shall be completed within 12 months from the date of service. As used in this section, "service" means the service of process required by law for the particular proceeding. The district attorney's responsibility applies to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought for modification or revocation of an order that is being enforced under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), the effective date of the modification or revocation shall be as prescribed by federal law (42 U.S.C. Sec. 666(a)(9)), or any subsequent date.

(c) (1) The Judicial Council, in consultation with the department and representatives of the California Family Support Council, the Senate Judiciary Committee, the Assembly Judiciary Committee, and a legal services organization providing representation on child support matters, shall develop simplified complaint and answer forms for any action for support brought pursuant to this section or Section 11350.1.

(2) The simplified complaint form shall provide the defendant with notice of the amount of child support that is sought pursuant to the guidelines set forth in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of the Family Code by stating the possible amount of an order in terms of a percentage of the defendant's income for the number of children specified in the order. The Judicial Council shall determine the percentage estimates. The complaint shall state that the estimated percentage is only an estimate and that the actual order will be based upon the defendant's actual ability to pay and may be significantly higher or lower than the estimated percentage.

(3) (A) The simplified answer form shall be written in simple English and shall permit a defendant to answer and raise defenses by checking applicable boxes. The answer form shall include instructions for completion of the form and instructions for proper filing of the answer.

(B) The answer form shall include a blank standard or simplified Declaration of Income and Expenses form and instructions on how to complete the Declaration of Income and Expenses. The answer

form shall direct the defendant to file the completed Declaration of Income and Expenses with the answer, but shall state that the answer will be accepted by a court without the Declaration of Income and Expenses.

(C) The clerk of the court shall accept and file answers that are completed by hand provided they are legible.

(4) (A) The simplified complaint form prepared pursuant to this subdivision shall be used by the district attorney or the Attorney General in all cases brought under this section or Section 11350.1.

(B) The simplified answer form prepared pursuant to this subdivision shall be served on all defendants with the simplified complaint. Failure to serve the simplified answer form on all defendants shall not invalidate any judgment obtained. However, failure to serve the answer form may be used as evidence in any proceeding under Section 473 of the Code of Civil Procedure.

(C) The Judicial Council shall add language to the governmental summons, for use by the district attorney with the governmental complaint to establish parental relationship and child support, informing defendants that a blank answer form should have been received with the summons and additional copies may be obtained from either the district attorney's office or the superior court clerk.

(d) In any action brought or enforcement proceedings instituted by the district attorney pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the district attorney at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority.

(e) The county shall undertake an outreach program to inform the public that the services described in subdivisions (a) to (c), inclusive, are available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that the services provided in subdivisions (a) to (c), inclusive, are provided to all individuals whether or not they are recipients of public social services.

(f) In any action to establish a child support order brought by the district attorney in the performance of duties under this section, the district attorney may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order shall have the same force and effect as a like or similar order under the Family Code.

The district attorney shall file a motion for an order for temporary support within the following time limits:

(1) If the defendant is the mother, a presumed father under Section 7611 of the Family Code, or any father where the child is at

least six months old when the defendant files his answer, the time limit is 90 days after the defendant files an answer.

(2) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

If the district attorney fails to file a motion for an order for temporary support within time limits specified in this section, the district attorney shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no such motion is filed, when a final judgment is entered.

Nothing in this section prohibits the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

As used in subdivision (b), "complex issues" means issues arising in the following types of cases: (1) any case which could directly result in a person's incarceration; (2) any case involving the right to jury trial; and (3) any case so deemed by a commissioner, a referee, or a superior court judge.

In counties which operate an expedited process in accordance with Section 640.1 of the Code of Civil Procedure, commissioners and referees shall order a temporary support obligation under the expedited process in complex cases, as defined in this section, prior to referring those cases to the full judicial system.

(g) As used in this article, "enforcing obligations" includes, but is not limited to, (1) the use of all interception and notification systems operated by the State Department of Social Services for the purposes of aiding in the enforcement of support obligations, (2) the obtaining by the district attorney of an initial order for child support, which may include medical support or which is for medical support only, by civil or criminal process, (3) the initiation of a motion or order to show cause to increase an existing child support order, and the response to a motion or order to show cause brought by an obligor parent to decrease an existing child support order, or the initiation of a motion or order to show cause to obtain an order for medical support, and the response to a motion or order to show cause brought by an obligor parent to decrease or terminate an existing medical support order, without regard to whether the child is receiving

public assistance, and (4) the response to a notice of motion or order to show cause brought by an obligor parent to decrease an existing spousal support order when the child or children are residing with the obligee parent and the district attorney is also enforcing a related child support obligation owed to the obligee parent by the same obligor.

(h) As used in this section, "out of wedlock" means that the biological parents of the child were not married to each other at the time of the child's conception.

(i) The district attorney is the public agency responsible for administering wage withholding for the purposes of Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.). The district attorney shall seek an earnings assignment order for support in any case as soon as the obligor is in arrears in payment of support pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code.

Nothing in this section shall limit the authority of the district attorney granted by other sections of this code or otherwise granted by law.

(j) In the exercise of the authority granted under this article, the district attorney may intervene, pursuant to subdivision (b) of Section 387 of the Code of Civil Procedure, by ex parte application, in any action under the Family Code, or other proceeding wherein child support is an issue or a reduction in spousal support is sought. By notice of motion, order to show cause, or responsive pleading served upon all parties to the action, the district attorney may request such relief as appropriate which the district attorney is authorized to seek.

(k) The district attorney shall comply with any guidelines established by the State Department of Social Services which set time standards for responding to requests for assistance in locating absent parents, establishing paternity, establishing child support awards, and collecting child support payments.

(*l*) As used in this article, medical support activities which the district attorney is authorized to perform are limited to the following:

(1) The obtaining and enforcing of court orders for health insurance coverage.

(2) Any other medical support activity mandated by federal law or regulation.

SEC. 2.5. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. (a) Each county shall maintain a single organizational unit located in the office of the district attorney which shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both

civil and criminal, to establish, modify, and enforce child support and when appropriate enforce spousal support orders when the child is receiving public assistance, including Medi-Cal, and, when appropriate, to take the same actions on behalf of a child who is not receiving public assistance, including Medi-Cal.

(b) Actions brought by the district attorney to establish paternity or child support or to enforce child support obligations shall be completed within the time limits set forth by federal law. The district attorney's responsibility applies to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought for modification or revocation of an order that is being enforced under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), the effective date of the modification or revocation shall be as prescribed by federal law (42 U.S.C. Sec. 666(a)(9)), or any subsequent date.

(c) (1) The Judicial Council, in consultation with the department and representatives of the California Family Support Council, the Senate Judiciary Committee, the Assembly Judiciary Committee, and a legal services organization providing representation on child support matters, shall develop simplified complaint and answer forms for any action for support brought pursuant to this section or Section 11350.1.

(2) The simplified complaint form shall provide the defendant with notice of the amount of child support that is sought pursuant to the guidelines set forth in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of the Family Code by stating the possible amount of an order in terms of a percentage of the defendant's income for the number of children specified in the order. The Judicial Council shall determine the percentage estimates. The complaint shall state that the estimated percentage is only an estimate and that the actual order will be based upon the defendant's actual ability to pay and may be significantly higher or lower than the estimated percentage.

(3) (A) The simplified answer form shall be written in simple English and shall permit a defendant to answer and raise defenses by checking applicable boxes. The answer form shall include instructions for completion of the form and instructions for proper filing of the answer.

(B) The answer form shall include a blank standard or simplified Declaration of Income and Expenses form and instructions on how to complete the Declaration of Income and Expenses form. The answer form shall direct the defendant to file the completed Declaration of Income and Expenses with the answer, but shall state that the answer will be accepted by a court without the Declaration of Income and Expenses.

(C) The clerk of the court shall accept and file answers that are completed by hand provided they are legible.

(4) (A) The simplified complaint form prepared pursuant to this subdivision shall be used by the district attorney or the Attorney

General in all cases brought under this section or Section 11350.1.

(B) The simplified answer form prepared pursuant to this subdivision shall be served on all defendants with the simplified complaint. Failure to serve the simplified answer form on all defendants shall not invalidate any judgment obtained. However, failure to serve the answer form may be used as evidence in any proceeding under Section 473 of the Code of Civil Procedure.

(C) The Judicial Council shall add language to the governmental summons, for use by the district attorney with the governmental complaint to establish parental relationship and child support, informing defendants that a blank answer form should have been received with the summons and additional copies may be obtained from either the district attorney's office or the superior court clerk.

(d) In any action brought or enforcement proceedings instituted by the district attorney pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the district attorney at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority.

(e) The county shall undertake an outreach program to inform the public that the services described in subdivisions (a) to (c), inclusive, are available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that the services provided in subdivisions (a) to (c), inclusive, are provided to all individuals whether or not they are recipients of public social services.

(f) In any action to establish a child support order brought by the district attorney in the performance of duties under this section, the district attorney may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order shall have the same force and effect as a like or similar order under the Family Code.

The district attorney shall file a motion for an order for temporary support within the following time limits:

(1) If the defendant is the mother, a presumed father under Section 7611 of the Family Code, or any father where the child is at least six months old when the defendant files his answer, the time limit is 90 days after the defendant files an answer.

(2) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose

parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

If the district attorney fails to file a motion for an order for temporary support within time limits specified in this section, the district attorney shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no such motion is filed, when a final judgment is entered.

Nothing in this section prohibits the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

In counties which operate an expedited process in accordance with Section 640.1 of the Code of Civil Procedure, commissioners and referees shall order a temporary support order prior to referring those cases to the full judicial system.

(g) As used in this article, "enforcing obligations" includes, but is not limited to, (1) the use of all interception and notification systems operated by the State Department of Social Services for the purposes of aiding in the enforcement of support obligations, (2) the obtaining by the district attorney of an initial order for child support, which may include medical support or which is for medical support only, by civil or criminal process, (3) the initiation of a motion or order to show cause to increase an existing child support order, and the response to a motion or order to show cause brought by an obligor parent to decrease an existing child support order, or the initiation of a motion or order to show cause to obtain an order for medical support, and the response to a motion or order to show cause brought by an obligor parent to decrease or terminate an existing medical support order, without regard to whether the child is receiving public assistance, and (4) the response to a notice of motion or order to show cause brought by an obligor parent to decrease an existing spousal support order when the child or children are residing with the obligee parent and the district attorney is also enforcing a related child support obligation owed to the obligee parent by the same obligor.

(h) As used in this section, "out of wedlock" means that the biological parents of the child were not married to each other at the time of the child's conception.

(i) The district attorney is the public agency responsible for administering wage withholding for the purposes of Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.). The district attorney shall seek an earnings assignment order for support in any case as soon as the obligor is in arrears in payment of support pursuant to

Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code.

Nothing in this section shall limit the authority of the district attorney granted by other sections of this code or otherwise granted by law.

(j) In the exercise of the authority granted under this article, the district attorney may intervene, pursuant to subdivision (b) of Section 387 of the Code of Civil Procedure, by ex parte application, in any action under the Family Code, or other proceeding wherein child support is an issue or a reduction in spousal support is sought. By notice of motion, order to show cause, or responsive pleading served upon all parties to the action, the district attorney may request such relief as appropriate which the district attorney is authorized to seek.

(k) The district attorney shall comply with any guidelines established by the State Department of Social Services which set time standards for responding to requests for assistance in locating absent parents, establishing paternity, establishing child support awards, and collecting child support payments.

(*l*) As used in this article, medical support activities which the district attorney is authorized to perform are limited to the following:

(1) The obtaining and enforcing of court orders for health insurance coverage.

(2) Any other medical support activity mandated by federal law or regulation.

(m) (1) Notwithstanding any other provision of law, venue for an action or proceeding under this part shall be determined follows:

(A) Venue shall be in the superior court in the county that is currently expending public assistance.

(B) If public assistance is not currently being expended, venue shall be in the superior court in the county where the child who is entitled to current support resides or is domiciled.

(C) If current support is no longer payable through, or enforceable by, the district attorney, venue shall be in the superior court in the county that last provided public assistance for actions to enforce arrearages assigned pursuant to Section 11477.

(D) If subparagraphs (A), (B), and (C) do not apply, venue shall be in the superior court in the county of residence of the support obligee.

(E) If the support obligee does not reside in California, and subparagraphs (A), (B), (C), and (D) do not apply, venue shall be in the superior court of the county of residence of the obligor.

(2) Notwithstanding paragraph (1), if the child becomes a resident of another county after an action under this part has been filed, venue may remain in the county where the action was filed until the action is completed.

(n) The district attorney of one county may appear on behalf of the district attorney of any other county in an action or proceeding

under this part.

SEC. 3. Section 11478.2 of the Welfare and Institutions Code is amended to read:

11478.2. (a) In all actions involving paternity or support, including, but not limited to, proceedings under the Family Code, and under this division, the district attorney and Attorney General represent the public interest in establishing, modifying, and enforcing support obligations. No attorney-client relationship shall be deemed to have been created between the district attorney or Attorney General and any person by virtue of the action of the district attorney or the Attorney General in carrying out these statutory duties.

(b) The provisions of subdivision (a) are declarative of existing law.

(c) In all requests for services of the district attorney or Attorney General pursuant to Section 11475.1 relating to actions involving paternity or support, not later than the same day an individual makes a request for these services in person, and not later than five working days after either (1) a case is referred for services from the county welfare department, (2) receipt of a request by mail for an application for services, or (3) an individual makes a request for services by telephone, the district attorney or Attorney General shall give notice to the individual requesting services or on whose behalf services have been requested that the district attorney or Attorney General does not represent the individual or the children who are the subject of the case, that no attorney-client relationship exists between the district attorney or Attorney General and those persons, and that no such representation or relationship shall arise if the district attorney or Attorney General provides the services requested. Notice shall be in bold print and in plain English and shall be translated into the language understandable by the recipient when reasonable. The notice shall include the advice that the absence of an attorney-client relationship means that communications from the recipient are not privileged and that the district attorney or Attorney General may provide support enforcement services to the other parent in the future.

(d) The district attorney or Attorney General shall give the notice required pursuant to subdivision (c) to all recipients of services under Section 11475.1 who have not otherwise been provided that notice, not later than the date of the next annual notice required under Section 11476.2. This notice shall include notification to the recipient of services under Section 11475.1 that the recipient may inspect the clerk's file at the county clerk's office, and that, upon request, the district attorney, or, if appropriate, the Attorney General, will furnish a copy of the most recent order entered in the case.

(e) The district attorney, or, if appropriate, the Attorney General, shall provide to recipients of support services under Section 11475.1, not later than 30 calendar days after the filing of a complaint for

paternity or support, or both, information sufficient to identify the cases, including the case name and docket number and address of the court where the complaint has been filed. In this initial notice, the district attorney or Attorney General shall inform the recipient that the district attorney or Attorney General may enter into a stipulated order resolving the complaint, and that if the recipient wishes to assist the prosecuting attorney, he or she should send all information on the noncustodial parent's earnings and assets to the prosecuting attorney.

(f) (1) The district attorney or Attorney General shall provide written notice to recipients of services under Section 11475.1 of the initial date and time, and purpose of every hearing in a civil action for paternity or support. The notice shall include the following language:

IMPORTANT NOTICE

It may be important that you attend the hearing. The district attorney does not represent you or your children. You may have information about the noncustodial parent, such as information about his or her income or assets, or your need for support that will not be presented to the court unless you attend the hearing. With the permission of the court, you have the right to be heard in court and tell the court what you think the court should do with the child support order.

If you have a court order for support that arose as part of your divorce, this hearing could change your rights or your children's rights to support. You have the right to attend the hearing and, with the permission of the court, to be heard.

If you would like to attend the hearing and be told about any changes to the hearing date or time, notify this office by _____. The district attorney or Attorney General will then have to tell you about any changes to the hearing date or time.

(2) The notice shall state the purpose of the hearing or be attached to the motion or other pleading which caused the hearing to be scheduled.

(3) The notice shall be provided separate from all other material and shall be in at least 14-point type. The failure of the district attorney or Attorney General to comply with this subdivision shall not affect the validity of any order.

(4) The notice shall be provided not later than seven calendar days prior to the hearing, or, if the district attorney or attorney general receives notice of the hearing less than seven days prior to the hearing, within two days of the receipt by the district attorney or attorney general of the notice of the hearing.

(5) The district attorney or attorney general shall, in order to

implement this subdivision, make reasonable efforts to ensure that the district attorney or attorney general has current addresses for recipients of support enforcement services.

(g) The district attorney or Attorney General shall give notice to recipients of services under Section 11475.1 of every order obtained by the district attorney or Attorney General that establishes or modifies the support obligation for the recipient or the children who are the subject of the order, by sending a copy of the order to the recipient. The notice shall be made within 30 calendar days after the order has been filed. The district attorney or Attorney General shall also give notice to these recipients of every order obtained in any other jurisdiction, that establishes or modifies the support obligation for the recipient or the children who are the subject of the order, and which is received by the district attorney or Attorney General, by sending a copy of the order to the recipient within 30 calendar days after the district attorney or Attorney General has received a copy of the order. In any action enforced under Chapter 6 (commencing with Section 4800) of Part 5 of Division 9 of the Family Code, the notice shall be made in compliance with the requirements of that chapter. The failure of the district attorney or Attorney General to comply with this subdivision shall not affect the validity of any order.

(h) The district attorney or Attorney General shall give notice to the noncustodial parent against whom a civil action is filed that the district attorney or Attorney General is not the attorney representing any individual, including, but not limited to, the custodial parent, the child, or the noncustodial parent.

(i) Nothing in this section shall be construed to preclude any person who is receiving services under Section 11475.1 from filing and prosecuting an independent action to establish, modify, and enforce an order for current support on behalf of himself or herself or a child if that person is not receiving public assistance.

(j) A person who is receiving services under Section 11475.1 but who is not currently receiving public assistance on his or her own behalf or on behalf of a child shall be asked to execute, or consent to, any stipulation establishing or modifying a support order in any action in which that person is named as a party, before the stipulation is filed. The district attorney or Attorney General shall not submit to the court for approval a stipulation to establish or modify a support order in such an action without first obtaining the signatures of all parties to the action, their attorneys of record, or persons authorized to act on their behalf.

(k) The district attorney or Attorney General shall not enter into a stipulation which reduces the amount of past due support, including interest and penalties accrued pursuant to an order of current support, on behalf of a person who is receiving support enforcement services under Section 11475.1 and who is owed support arrearages that exceed unreimbursed public assistance paid to the recipient of the support enforcement services, without first obtaining the consent of the person who is receiving services under

Section 11475.1 on his or her own behalf or on behalf of the child.

(*l*) The notices required in this section shall be provided in the following manner:

(1) In all cases in which the person receiving services under Section 11475.1 resides in California, notice shall be provided by mailing the item by first-class mail to the last known address of, or personally delivering the item to, that person.

(2) In all actions enforced under Chapter 6 (commencing with Section 4800) of Part 5 of Division 9 of the Family Code, unless otherwise specified, notice shall be provided by mailing the item by first-class mail to the initiating court.

(m) Notwithstanding any other provision of this section, the notices provided for pursuant to subdivisions (c) to (g), inclusive, shall not be required in foster care cases.

SEC. 4. Section 16575 of the Welfare and Institutions Code is amended to read:

16575. (a) The Legislature finds and declares that there is no single statewide data base containing statistical data regarding child support orders.

(b) The Statewide Automated Child Support System shall be utilized to provide a single statewide registry of all child support orders in California.

(c) The department shall conduct a study examining the feasibility of alternative models of a single statewide registry of all California child support orders through the Statewide Automated Child Support System.

(d) The requirements of subdivision (c) shall become operative when federal funds are available for all of the costs of the statewide registry or on January 31, 1996, whichever occurs first.

SEC. 5. Section 16576 of the Welfare and Institutions Code is amended to read:

16576. (a) The department shall develop an implementation plan for the Child Support Registry. The plan shall be developed in consultation with county clerks, district attorneys, and the appropriate policy committees of the Legislature. At the time of implementation, the department shall inform each county clerk of that fact. Each county clerk shall provide information to the statewide registry at the Statewide Automated Child Support System which may include a certified copy of the Child Support Order and Data Form and the Order of Child Support Arrears, as appropriate.

(b) The State Department of Social Services shall maintain a system for recording the data from all Child Support Order and Data Forms and Orders of Child Support Arrears received from the county court clerks.

(c) The State Department of Social Services shall further provide access to the information obtained from both the Child Support Order and Data Forms and Orders of Child Support Arrears to the Judicial Council, representatives of the Executive Branch, and Legislature for statistical analysis and review.

(d) Any information maintained by the Statewide Automated Child Support System from the Child Support Order and Data Forms and Orders of Child Support Arrears forms received from county clerks shall be provided to county district attorneys and others as provided by law.

(f) The requirements of this section shall become operative and the department shall begin development of the statewide registry when federal funds are available for all of the costs of the statewide registry, or on April 30, 1996, whichever occurs first.

SEC. 6. Section 16576.5 of the Welfare and Institutions Code is amended to read:

16576.5. The State Department of Social Services shall contract with the Judicial Council to prepare and adopt the Child Support Order and Data Form, which shall contain the following information:

(a) Full name, last known address, telephone number, social security number, and birth date of both parties.

(b) The date on which the child support order will terminate (e.g. the date the youngest child turns 18 or 19 if still in high school).

(c) A clear statement of the amount of child support to be paid for each child.

(d) If the order is a modification of a prior child support order, a clear statement of the amount of the prior order for each child and the amount of the modified order for each child.

(e) Any other information the State Department of Social Services or the Judicial Council finds appropriate.

SEC. 7. Section 16577 of the Welfare and Institutions Code is amended to read:

16577. The State Department of Social Services shall contract with the Judicial Council to prepare and adopt the Order of Child Support Arrears Form which shall contain on its face the following information:

(a) Full name, last known address, telephone number, social security number, and birth date of both parties.

(b) Date on which court order on arrears will terminate, if known.

(c) A clear statement of the amount of the child support arrearage.

(d) If the order is a modification of a prior child support order, a clear statement of the amount of the prior order, and the amount of the modified order.

(e) Any other information the State Department of Social Services or the Judicial Council finds appropriate.

SEC. 8. Section 2.5 of this bill incorporates amendments to Section 11475.1 of the Welfare and Institutions Code proposed by both this bill and AB 2208. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) each bill amends Section 11475.1 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2208, in which case Section 2 of this bill shall not become operative.

SEC. 9. Notwithstanding Section 17610 of the Government Code,

if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 954

An act to amend Section 12527 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 12527 of the Vehicle Code is amended to read:

12527. In addition to satisfying all requirements specified in this code and regulations adopted pursuant to this code, an applicant for an ambulance driver certificate shall satisfy all of the following requirements:

(a) Except as otherwise provided, every ambulance driver responding to an emergency call or transporting patients shall be at least 18 years of age, hold a driver's license valid in California, possess a valid ambulance driver certificate, and be trained and competent in ambulance operation and the use of safety and emergency care equipment required by the California Code of Regulations governing ambulances.

(b) Except as provided in subdivision (f), no person shall operate an ambulance unless the person has in his or her immediate possession a driver's license for the appropriate class of vehicle to be driven, and a certificate issued by the department to permit the operation of an ambulance.

(c) An ambulance driver certificate may be issued by the department only upon the successful completion of an examination conducted by the department and subject to all of the following conditions:

(1) An applicant for an original or renewal driver certificate shall submit a report of medical examination on a form approved by the department, the Federal Highway Administration, or the Federal Aviation Administration. The report shall be dated within the two

years preceding the application date.

(2) An applicant for an original driver certificate shall submit an acceptable fingerprint card.

(3) The certificate to drive an ambulance shall be valid for a period not exceeding four years and six months and shall expire on the same date as the driver's license. The ambulance driver certificate shall be valid only when accompanied by a medical examination certificate which was issued within the preceding two years and approved by the department, Federal Highway Administration, or Federal Aviation Administration.

(4) The ambulance driver certificate is renewable under conditions prescribed by the department. Except as permitted under paragraphs (2) and (3) of subdivision (d), applicants renewing an ambulance driver certificate shall possess certificates or licenses evidencing compliance with the emergency medical training and educational standards for ambulance attendants established by the Emergency Medical Service Authority.

(d) (1) Every ambulance driver shall have been trained to assist the ambulance attendant in the care and handling of the ill and injured.

Except as provided in paragraph (2), the driver of a California-based ambulance shall, within one year of initial issuance of the driver's ambulance driver certificate, possess a certificate or license evidencing compliance with the emergency medical training and educational standards established for ambulance attendants by the Emergency Medical Service Authority. In those emergencies requiring both the regularly assigned driver and attendant to be utilized in providing patient care, the specialized emergency medical training requirement shall not apply to persons temporarily detailed to drive the ambulance.

(2) Paragraph (1) does not apply to an ambulance driver who is a volunteer driver for a volunteer ambulance service under the circumstances specified in this paragraph, if the service is provided in the unincorporated areas of a county with a population of less than 125,000 persons, as determined by the most recent federal decennial census. The operation of an ambulance under this paragraph shall only apply if the name of the driver and the volunteer ambulance service and facts substantiating the public health necessity for an exemption are submitted to the department by the county board of supervisors and by at least one of the following entities in the county where the driver operates the ambulance:

(A) The county health officer.

(B) The county medical care committee.

(C) The local emergency medical services agency coordinator.

(3) The information required by paragraph (2) shall be submitted to the department at the time of application for an ambulance driver certificate. Upon receipt of that information, the department shall restrict the certificate holder to driving an ambulance for the volunteer ambulance service.

(4) The director may terminate any certificate issued pursuant to paragraph (2) at any time the department determines that the qualifying conditions specified therein no longer exist.

(5) The exemption granted pursuant to paragraph (2) shall expire on the expiration date of the ambulance driver certificate.

(e) A person holding a valid certificate to permit the operation of an ambulance, issued prior to January 1, 1991, shall not be required to reapply for a certificate to satisfy the requirements of this section until the certificate he or she holds expires or is canceled or revoked.

(f) An ambulance certificate is not required for persons operating ambulances in the line of duty as salaried, regular, full-time police officers, deputy sheriffs, or members of a fire department of a public agency. This exemption does not include volunteers and part-time employees or members of a department whose duties are primarily clerical or administrative.

CHAPTER 955

An act to amend Section 272 of, and to add Sections 255.1 and 272.1 to, the Health and Safety Code, relating to children's services.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 255.1 is added to the Health and Safety Code, to read:

255.1. In addition to the other eligibility requirements set forth in this article, prior to being determined financially eligible for services under this article, the applicant family shall agree to repay the California Children's Services Program for any treatment services authorized by the program in an amount not to exceed the proceeds of any judgment, award, or settlement for damages as a result of a lawsuit or pursuant to an agreement relating to a California Children's Services medically eligible condition.

SEC. 2. Section 272 of the Health and Safety Code is amended to read:

272. If the recipient of services provided by the California Children's Services Program, his or her guardian, conservator, personal representative, estate, or survivors, or any of them brings an action against a third person who may be liable for the injury, notice of institution of legal proceedings, notice of settlement, and all other notices required by this code shall be given to the State Director of Health Services in Sacramento and to the county-managed California Children's Services Program. The state director may provide notice to the Attorney General. All of these notices shall be given by the attorney retained to assert the

beneficiary's claim, or by the injured party beneficiary, his or her guardian, conservator, personal representative, estate, or survivors, if no attorney is retained.

SEC. 3. Section 272.1 is added to the Health and Safety Code, to read:

272.1. Except as otherwise provided by law, the amount of any judgment, award, or settlement relating to a medical condition for which treatment services have been provided under the California Children's Services Program shall be subject to a claim by the state department and the designated county agency for reimbursement of the costs of the benefits provided, and to any lien filed against that judgment, award, or settlement. The state department or the county designated agency, through its civil legal adviser, may, to enforce this right, institute and prosecute legal proceedings against the person who has received benefits under this article, his or her guardian, conservator, or other personal representative, or his or her estate. In the event of a judgment, award, or settlement in a suit or claim against a third person who is liable for the medical condition for which treatment services have been provided under the California Children's Services Program, the court or other agency shall first order paid from the judgment, award, or settlement the actual costs of the care and treatment furnished, or to be furnished, under the California Children's Services Program.

CHAPTER 956

An act to amend Sections 2608.5, 2620.3, 2630, 2633, 2634, 2635, 2636, 2636.5, 2638, 2639, 2651, 2652, 2653, 2655, 2655.2, 2655.3, 2655.4, 2655.5, 2655.6, 2655.7, 2655.71, 2655.8, 2655.9, 2672, and 2688 of, to amend and renumber Sections 2655.10 and 2655.11 of, to add Section 2655.1 to, to add and repeal Section 2630.5, and to repeal and add Section 2650 of, the Business and Professions Code, relating to physical therapy.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 2608.5 of the Business and Professions Code is amended to read:

2608.5. Each member of the committee, or any licensed physical therapist appointed by the committee, may inspect, or require reports from, a general or specialized hospital or any other facility providing physical therapy care, treatment or services and the physical therapy staff thereof, with respect to the physical therapy care, treatment, services, or facilities provided therein, and may inspect physical therapy patient records with respect to the care, treatment, services, or facilities. The authority to make inspections

and to require reports as provided by this section shall not be delegated by a member of the committee to any person other than a physical therapist and shall be subject to the restrictions against disclosure described in Section 2263.

SEC. 2. Section 2620.3 of the Business and Professions Code is amended to read:

2620.3. A physical therapist licensed pursuant to this chapter may apply topical medications as part of the practice of physical therapy as defined in Section 2620 if he or she complies with regulations duly adopted by the committee pursuant to this section and the Administrative Procedure Act. The committee shall adopt regulations implementing this section after meeting and conferring with the Medical Board of California and the California State Board of Pharmacy specifying those topical medications applicable to the practice of physical therapy and protocols for their use. Nothing in this section shall be construed to authorize a physical therapist to prescribe medications.

SEC. 3. Section 2630 of the Business and Professions Code is amended to read:

2630. It is unlawful for any person or persons to practice, or offer to practice, physical therapy in this state for compensation received or expected, or to hold himself or herself out as a physical therapist, unless at the time of so doing the person holds a valid, unexpired, and unrevoked license issued under this chapter.

Nothing in this section shall restrict the activities authorized by their licenses on the part of any persons licensed under this code or any initiative act, or the activities authorized to be performed pursuant to Article 4.5 (commencing with Section 2655) or Chapter 7.7 (commencing with Section 3500).

A physical therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the physical therapist in his or her practice of physical therapy. "Patient-related task" means a physical therapy service rendered directly to the patient by an aide, excluding non-patient-related tasks. "Non-patient-related task" means a task related to observation of the patient, transport of the patient, physical support only during gait or transfer training, housekeeping duties, clerical duties, and similar functions. The aide shall at all times be under the orders, direction, and immediate supervision of the physical therapist. Nothing in this section shall authorize an aide to independently perform physical therapy or any physical therapy procedure. The committee shall adopt regulations that set forth the standards and requirements for the orders, direction, and immediate supervision of an aide by a physical therapist. The physical therapist shall provide continuous and immediate supervision of the aide. The physical therapist shall be in the same facility as, and in proximity to, the location where the aide is performing patient-related tasks, and shall be readily available at all times to provide advice or instruction to the aide. When patient-related tasks are provided to a patient by an aide,

the supervising physical therapist shall, at some point during the treatment day, provide direct service to the patient as treatment for the patient's condition, or to further evaluate and monitor the patient's progress, and shall correspondingly document the patient's record.

The administration of massage, external baths, or normal exercise not a part of a physical therapy treatment shall not be prohibited by this section.

SEC. 3.3. Section 2630 of the Business and Professions Code is amended to read:

2630. It is unlawful for any person or persons to practice, or offer to practice, physical therapy in this state for compensation received or expected, or to hold himself or herself out as a physical therapist, unless at the time of so doing the person holds a valid, unexpired, and unrevoked license issued under this chapter.

Nothing in this section shall restrict the activities authorized by their licenses on the part of any persons licensed under this code or any initiative act, or the activities authorized to be performed pursuant to Article 4.5 (commencing with Section 2655) or Chapter 7.7 (commencing with Section 3500).

The administration of massage, external baths, or normal exercise not a part of a physical therapy treatment shall not be prohibited by this section.

SEC. 3.5. Section 2630.5 is added to the Business and Professions Code, to read:

2630.5. A physical therapist licensed pursuant to this chapter may utilize the services of one aide to perform patient-related tasks at any given time to assist the physical therapist in his or her practice of physical therapy. "Patient-related task" means a physical therapy service rendered directly to the patient by an aide, excluding non-patient-related tasks. "Non-patient-related task" means a task related to observation of the patient, transport of the patient, physical support only during gait or transfer training, housekeeping duties, clerical duties, and similar functions.

The aide shall at all times be under the orders, direction, and immediate supervision of the physical therapist. Nothing in this section shall authorize an aide to independently perform physical therapy or any physical therapy procedure. The committee shall adopt regulations that set forth the standards and requirements for the orders, direction, and immediate supervision of an aide by a physical therapist. The physical therapist shall provide continuous and immediate supervision of the aide. The physical therapist shall be in the same facility as, and in proximity to, the location where the aide is performing patient-related tasks, and shall be readily available at all times to provide advice or instruction to the aide. When patient-related tasks are provided to a patient by an aide, the supervising physical therapist shall, at some point during the treatment day, provide direct service to the patient as treatment for the patient's condition, or to further evaluate and monitor the

patient's progress, and shall correspondingly document the patient's record.

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

SEC. 4. Section 2633 of the Business and Professions Code is amended to read:

2633. A person holding a license as a physical therapist issued by the committee may use the title "physical therapist" or the letters "P.T." or any other words, letters or figures which indicate that the person using same is a licensed physical therapist. No other person shall be so designated or shall use the term licensed or registered physical therapist, licensed or registered physiotherapist, licensed or registered physical therapy technician, or the letters "L.P.T.," "R.P.T.," or "P.T.". The license as a physical therapist shall not authorize the use of the prefix "Dr.," the word "doctor," or any suffix or affix indicating or implying that the licensed person is a doctor or a physician or surgeon.

Notwithstanding this section, a licentiate of this chapter may use an initial or other suffix indicating possession of a specific academic degree earned at, and issued by, an institution accredited by the Western Association of Schools and Colleges or any accrediting agency recognized by the National Commission on Accrediting or the United States Department of Education which the board determines is equivalent, except that the initials "M.D." shall not be used unless the licentiate is licensed as a physician and surgeon in this state.

SEC. 5. Section 2634 of the Business and Professions Code is amended to read:

2634. The committee may investigate each and every applicant for a license, before a license is issued, in order to determine whether or not the applicant has in fact the qualifications required by this chapter.

SEC. 6. Section 2635 of the Business and Professions Code is amended to read:

2635. Every applicant for a license under this chapter shall, at the time of application, be a person over 18 years of age, not addicted to alcohol or any controlled substance, have successfully completed the education and training required by Section 2650, and not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

SEC. 7. Section 2636 of the Business and Professions Code is amended to read:

2636. Except as otherwise provided in this chapter, no person shall receive a license under this chapter without first successfully passing an examination given under the direction of the committee. The examination shall be in writing and shall be conducted by those persons and in the manner and under regulations as shall be prescribed by the committee but shall be so conducted that the

identity of each applicant taking an examination will be unknown to all of the examiners until all of the papers have been graded.

Applicants for licensure as a physical therapist shall be required to demonstrate knowledge of the laws and regulations related to the practice of physical therapy in California. The examination shall reasonably test the applicant's knowledge of these laws and regulations.

SEC. 8. Section 2636.5 of the Business and Professions Code is amended to read:

2636.5. (a) An applicant may be issued a license without a written examination if he or she meets all of the following:

(1) He or she is at the time of application licensed or registered as a physical therapist in a state, district, or territory of the United States having, in the opinion of the committee, requirements for licensing or registration equal to or higher than those in California, and he or she has passed, to the satisfaction of the committee, an examination for licensing or registration that is, in the opinion of the committee, comparable to the examination used in this state.

(2) He or she is a graduate of a physical therapist education program approved by the committee, or has met the requirements of Section 2653.

(3) He or she files an application as provided in Section 2632 and meets the requirements prescribed by Sections 2635 and 2650.

(b) An applicant for licensure under subdivision (a), whose application is based on a certificate issued by a physical therapy licensing authority of another state may be required to pass an oral examination given by the committee and file a statement of past work activity.

(c) An applicant who has filed a physical therapy application under this section with the committee may, between the date of receipt of notice that his or her application is on file and the date of receipt of his or her license, perform as a physical therapist under the direct and immediate supervision of a physical therapist licensed in this state.

During this period the applicant shall identify himself or herself only as a "physical therapist license applicant."

If the applicant under this section does not qualify and receive a license as provided in this section and does not qualify under Section 2639 all privileges under this section shall terminate upon notice by certified mail, return receipt requested.

SEC. 9. Section 2638 of the Business and Professions Code is amended to read:

2638. Any applicant for licensure as a physical therapist who fails to pass the examination required by the committee may take another examination and shall pay the reexamination fee.

SEC. 10. Section 2639 of the Business and Professions Code is amended to read:

2639. Every graduate of an approved physical therapist education program who has filed a complete application for

licensure with the committee may, between the date of receipt of a letter of authorization to perform as a "physical therapist license applicant" from the committee and the date of receipt of his or her license, perform as a physical therapist under the direct and immediate supervision of a physical therapist licensed in this state. During this period the applicant shall identify himself or herself only as a "physical therapist license applicant."

A person shall not be considered a graduate unless he or she has successfully completed all the clinical training and internships required for graduation from the program.

If the applicant fails to take the next succeeding examination without due cause or fails to pass the examination or receive a license, all privileges under this section shall terminate upon notice by certified mail, return receipt requested.

SEC. 11. Section 2650 of the Business and Professions Code is repealed.

SEC. 12. Section 2650 is added to the Business and Professions Code, to read:

2650. (a) Except as otherwise provided in this chapter, each applicant for a license as a physical therapist shall be a graduate of a professional degree program of an accredited postsecondary institution or institutions approved by the committee, and shall have completed a professional education including academic coursework and clinical internship in physical therapy.

(b) As referenced in the evaluative criteria of the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association, the curriculum shall consist of a combination of didactic, clinical, and research experiences in physical therapy using critical thinking and weighing of evidence, and shall include, at a minimum, all of the following:

(1) The sciences basic to physical therapy including biomedical, physical, physiological, neurobiological, anatomical, social and behavioral sciences.

(2) Clinical sciences including laboratory or other practical experiences involving quantitative and qualitative evaluation within the scope of physical therapy practice including kinesiology, neuroscience, pathology, human development, and gerontology.

(3) Treatment that constitutes the practice of physical therapy.

(4) Learning experiences provided in the areas of administration, education, and consultation.

(5) Research methods including the review and critical analysis of research reports.

(6) Ethical, legal, and economical concepts of physical therapy practice.

(c) Each applicant shall have at least 18 weeks of full-time clinical experience with a variety of patients.

SEC. 13. Section 2651 of the Business and Professions Code is amended to read:

2651. The committee may approve only those physical therapist

education programs that prove to the satisfaction of the committee that they comply with the minimum physical therapy educational requirements set forth in this chapter and adopted by the committee pursuant to this chapter. Physical therapist education programs that are recognized by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association shall be deemed approved by the committee unless the committee determines otherwise.

SEC. 14. Section 2652 of the Business and Professions Code is amended to read:

2652. All physical therapist education programs, whether situated in this state or not, furnishing courses of study meeting the standards required by Sections 2650 and 2651 and the regulations of the committee adopted pursuant to this chapter shall be approved by the committee and shall be entitled to compel this approval, if it is denied, by action in the Superior Court of the State of California, the procedure and power of the court in which action shall be the same as provided in Section 2087.

SEC. 15. Section 2653 of the Business and Professions Code is amended to read:

2653. (a) An applicant for a license as a physical therapist who was issued a diploma by a physical therapist education program that is not an approved program and is not located in the United States shall meet all of the following requirements in order to be licensed as a physical therapist:

(1) Furnish documentary evidence satisfactory to the committee, that he or she has completed the equivalent professional degree to that issued by a United States accredited physical therapist education program in a physical therapist education program that entitles the applicant to practice as a physical therapist in the country where the diploma was issued. The physical therapy education received by the applicant shall meet the criteria set forth in subdivisions (b) and (c) of Section 2650. The committee may require an applicant to submit documentation of his or her education to a credentials evaluation service for review and a report to the committee.

(2) Pass the written examination required by Section 2636. The requirements to pass the written examination shall not apply to an applicant who at the time of application has passed, to the satisfaction of the committee, an examination for licensure in another state, district, or territory of the United States, that is, in the opinion of the committee, comparable to the examination given in this state.

(3) Complete a period of clinical service under the direct and immediate supervision of a physical therapist licensed by the board which does not exceed nine months in a location approved by the committee, in a manner satisfactory to the committee. The applicant shall have passed the written examination required in subdivision (b) prior to commencing the period of clinical service. The committee shall require the supervising physical therapist to evaluate the applicant and report his or her findings to the

committee. The committee may in its discretion waive all or part of the required clinical service pursuant to guidelines set forth in its regulations. During the period of clinical service until he or she is issued a license as a physical therapist by the committee, the applicant shall be identified as a "physical therapist license applicant."

(4) An applicant for licensure under this subdivision, whose application is based on a certificate issued by a physical therapist licensing authority of another state, may be required to pass an oral examination given by the committee, and to file a statement of past work activity.

(b) Nothing contained in this section shall prohibit the committee from disapproving any foreign physical therapist education program or from denying the applicant if, in the opinion of the committee, the instruction received by the applicant or the courses were not equivalent to that required by this chapter. If the applicant does not qualify to take the physical therapist examination, his or her education may be evaluated and the applicant may be eligible to take the physical therapist assistant examination.

SEC. 16. Section 2655 of the Business and Professions Code is amended to read:

2655. As used in this article:

(a) "Physical therapist" means a physical therapist licensed by the committee.

(b) "Physical therapist assistant" means a person who meets the qualifications stated in Section 2655.3 and who is approved by the committee to assist in the provision of physical therapy under the supervision of a physical therapist who shall be responsible for the extent, kind, and quality of the services provided by the physical therapist assistant.

(c) "Physical therapist assistant" and "physical therapy assistant" shall be deemed identical and interchangeable.

SEC. 17. Section 2655.1 is added to the Business and Professions Code, to read:

2655.1. The committee shall adopt regulations that set forth standards and requirements for the adequate supervision of physical therapist assistants.

SEC. 18. Section 2655.2 of the Business and Professions Code is amended to read:

2655.2. A physical therapist shall not supervise more physical therapist assistants at any one time than in the opinion of the committee can be adequately supervised. Two physical therapist assistants shall be the maximum number of physical therapist assistants supervised by a physical therapist at any one time, but the examining committee may permit the supervision of a greater number by a physical therapist if, in the opinion of the examining committee, there would be adequate supervision and the public's health and safety would be served. In no case, however, shall the total number of physical therapist assistants exceed twice the number of

physical therapists regularly employed by a facility at any one time.

SEC. 19. Section 2655.3 of the Business and Professions Code is amended to read:

2655.3. A person seeking approval as a physical therapist assistant shall make application to the committee for that approval. Every person applying for approval as a physical therapist assistant shall have all of the following qualifications:

(a) Have graduated from a physical therapist assistant education program approved by the committee pursuant to Section 2655.9, or have training or experience or a combination of training and experience which in the opinion of the committee is equivalent to that obtained in an approved physical therapist assistant education program.

(b) Successfully pass the examination required under this article.

(c) Not be addicted to alcohol or any controlled substance.

(d) Not have committed acts or crimes constituting grounds for denial of approval under Section 480.

SEC. 20. Section 2655.4 of the Business and Professions Code is amended to read:

2655.4. Except as otherwise provided in this chapter, no person shall receive approval as a physical therapist assistant without first successfully passing an examination given under the direction of the committee. The examination shall be in writing and shall be conducted by those persons and in the manner and under regulations as shall be prescribed by the committee, but shall be so conducted that the identity of each applicant taking an examination will be unknown to all of the examiners until all of the papers have been graded.

SEC. 21. Section 2655.5 of the Business and Professions Code is amended to read:

2655.5. Every applicant for approval as a physical therapist assistant who is otherwise qualified as provided in this chapter, and who receives a passing grade, as established by the committee, on the examination shall be issued a certificate of approval.

SEC. 22. Section 2655.6 of the Business and Professions Code is amended to read:

2655.6. Any applicant for approval as a physical therapist assistant who fails to pass the examination given by the committee may take another examination and shall pay the reexamination fee.

SEC. 23. Section 2655.7 of the Business and Professions Code is amended to read:

2655.7. Notwithstanding Section 2630, a physical therapist assistant may assist in the provision of physical therapy service provided the assistance is rendered under the supervision of a physical therapist licensed by the committee.

SEC. 24. Section 2655.71 of the Business and Professions Code is amended to read:

2655.71. (a) An applicant may be issued an approval as a physical therapist assistant without written examination if he or she meets all

of the following requirements:

(1) He or she is at the time of application approved, licensed, or registered as a physical therapist assistant in a state, district, or territory of the United States having, in the opinion of the committee, requirements for approval, licensing, or registration equal to or higher than those in California, and he or she has passed, to the satisfaction of the committee, an examination for that approval, licensing or registration that is, in the opinion of the committee, comparable to the examination used in this state.

(2) He or she is a graduate of a physical therapist assistant education program approved by the committee or has graduated from a program determined by the committee to be equivalent, or as meeting the evaluative criteria for accreditation by the Commission on Accreditation in Physical Therapy Education of the American Physical Therapy Association.

(3) He or she files an application as provided in Section 2655.3.

(b) An applicant who has filed a physical therapist assistant application may assist in the provision of physical therapy in accordance with Section 2655.91.

SEC. 25. Section 2655.8 of the Business and Professions Code is amended to read:

2655.8. Any person, other than one who has been approved by the committee, who holds himself or herself out as a "physical therapist assistant" or who uses any other term indicating or implying that he or she is a physical therapist assistant, is guilty of a misdemeanor.

SEC. 26. Section 2655.9 of the Business and Professions Code is amended to read:

2655.9. (a) The committee shall approve each physical therapist assistant education program that proves to the satisfaction of the committee that it complies with criteria for approval of those programs set forth in this section and established by the committee. These criteria may be based upon the standards and curriculum guidelines for a physical therapist assistant education program as promulgated by the American Physical Therapy Association or an essentially equivalent organization.

(b) Except as otherwise provided in this chapter, each applicant for approval as a physical therapist assistant shall be a graduate of an accredited postsecondary institution or institutions and shall have completed both the academic and clinical experience required by the physical therapist assistant program, and have been awarded the associate degree.

(c) The curriculum shall consist of a combination of basic sciences, applied clinical sciences, and progressive application through clinical experience. The curriculum shall reflect education in the skills and judgment required of the physical therapist assistant in the contemporary performance of physical therapy through an organized sequence of integrated learning experiences.

(1) The basic sciences shall include, at a minimum, human

anatomy and physiology, physical or health sciences, and social or behavioral sciences.

(2) The applied clinical sciences shall include neurology, normal and pathological kinesiology, normal and abnormal growth and development, gerontology, orthopedic disorders, and fundamentals of physical therapy including the economic, legal, and ethical aspects of practice. Clinical studies shall also provide laboratory experiences in simulated patient treatment including the observation, measurement, and reporting of a patient's physiologic state and effectiveness of the treatment relative to the goals established by the physical therapist's evaluation.

(3) The clinical experience shall include physical therapy treatments of patients of varying ages, disabilities, and diseases. This experience shall occur in a variety of practice settings allowing for interaction with health care professionals. Clinical experience shall include daily written and verbal communication with the supervising physical therapist to report each patient's treatment program relative to the treatment goals and to discuss adjustments in the treatment program and discharge plan.

SEC. 27. Section 2655.10 of the Business and Professions Code is amended and renumbered to read:

2655.91. Every graduate of an approved physical therapist assistant education program who has filed a complete physical therapist assistant application with the committee may, between the date of receipt of a letter of authorization to perform as a "physical therapist assistant applicant" from the committee and the date of receipt of approval, assist in the provision of physical therapy under the direct and immediate supervision of a licensed physical therapist.

During this period the applicant shall identify himself or herself only as a "physical therapist assistant applicant."

If a person assisting in the provision of physical therapy pursuant to this section fails to take the next succeeding examination without due cause or fails to pass the examination or receive approval, all privileges under this section shall terminate upon notice by certified mail, return receipt requested.

A student is not eligible to work as a physical therapist assistant applicant until successful completion of the clinical experience required for graduation from the program.

SEC. 28. Section 2655.11 of the Business and Professions Code is amended and renumbered to read:

2655.92. The committee may adopt regulations as reasonably necessary to carry out the purposes of this article. The committee shall adopt a regulation formulating a definition of the term "adequate supervision" as used in this article.

SEC. 29. Section 2672 of the Business and Professions Code is amended to read:

2672. Whenever any person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the superior court of any county, on application

of the Medical Board of California, the committee, or 10 or more persons holding physical therapist licenses issued under this chapter, may issue an injunction or other appropriate order restraining the conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 30. Section 2688 of the Business and Professions Code is amended to read:

2688. The amount of fees provided in connection with licenses or approvals for the practice of physical therapy is as follows:

(a) The application fee for a physical therapist's license shall be established by the committee at not more than fifty dollars ($50). The application fee for an applicant under Section 2653 shall be established by the committee at not more than one hundred dollars ($100).

(b) The examination and reexamination fees for the physical therapist examination and the physical therapist assistant examination shall be the actual cost to the committee of the purchase and grading of each written examination, plus the actual cost to the committee of administering each examination.

(c) The initial license fee for a physical therapist license shall be eighty dollars ($80), unless a lower fee is established by the committee.

(d) The renewal fee for a physical therapist license shall be eighty dollars ($80), unless a lower fee is established by the committee.

(e) A fee to be set by the committee of not more than fifty dollars ($50) shall be charged for each application for approval as a physical therapist assistant.

(f) A fee of eighty dollars ($80) shall be charged for the issuance of and for the renewal of each approval as a physical therapist assistant, unless a lower fee is established by the committee.

(g) Notwithstanding Section 163.5, the delinquency fee shall be 50 percent of the renewal fee in effect.

(h) The duplicate wall certificate fee shall not exceed twenty dollars ($20). The duplicate renewal receipt fee shall not exceed twenty dollars ($20).

(i) The endorsement or letter of good standing fee is thirty dollars ($30).

SEC. 31. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 30.5. Sections 3.3 and 3.5 of this bill incorporate additional

changes related to amendment of Section 2630 of the Business and Professions Code proposed by both this bill and SB 437. They shall only become operative if (1) both bills are enacted and become effective on January 1, 1995, (2) each bill amends Section 2630 of the Business and Professions Code, and (3) this bill is enacted after SB 437, in which case Section 3 of this bill shall not become operative.

CHAPTER 957

An act relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. (a) This act shall be known, and may be cited, as the Higher Education Emergency Earthquake Recovery Act of 1994.

(b) The Legislature hereby finds and declares all of the following:

(1) The Northridge Earthquake of January 17, 1994, resulted in substantial damage at several public postsecondary educational institutions in the Los Angeles area.

(2) Damage to housing, public services, and critical transportation routes to some campuses may artificially dampen enrollment at those colleges for the Spring 1994 semester.

(3) In addition to direct physical damage, the earthquake and subsequent aftershocks resulted in psychological trauma for many students, faculty, and staff of the region's colleges and universities.

(4) The Northridge campus of the California State University, as the campus most severely damaged by the earthquake, requires special assistance and flexibility to respond effectively and quickly to the impacts of the earthquake and to resume full operation.

SEC. 2. (a) It is the intent of the Legislature in enacting this section to prevent community college districts affected by the earthquake from experiencing extraordinary funding reductions due to temporary enrollment losses.

(b) Notwithstanding subdivision (c) of Section 84750 of the Education Code, in addition to any other adjustments authorized by law, any decrease in the 1993–94 fiscal year in full-time equivalent student (FTES) enrollment resulting solely from the Northridge earthquake in the spring and summer terms of that fiscal year, as determined by the chancellor, in one of the community college districts specified in subdivision (c) shall not result in any reduction in revenue for the 1994–95 fiscal year.

(c) This section shall apply only to the following community college districts:

(1) Antelope Valley.

(2) Los Angeles.
(3) Santa Clarita.
(4) Santa Monica.
(5) Ventura.

SEC. 3. (a) Notwithstanding any other provision of law, the Trustees of the California State University shall have the authority described in this section for the sole and exclusive purpose of returning the Northridge campus of the university to full operation.

(b) Notwithstanding any other provision of law, in any instance where necessary records are not fully available to the Northridge campus of the California State University for the completion of reports or other actions required by statute or regulation, state agencies shall provide the university with a reasonable extension of deadlines.

(c) Notwithstanding any other provision of law, the deadline for any report that is required by statute to be submitted to the Legislature may be extended by the trustees unless, after notification to the Legislature by the trustees at least 10 days prior to the deadline, an objection is received by the trustees from the chair of a committee of either the Assembly or the Senate with jurisdiction over postsecondary education or the chair of the Joint Legislative Budget Committee.

This subdivision shall apply only to that portion of any required report relating to the Northridge campus.

(d) Except as provided in subdivision (e), no deadline shall be extended beyond December 31, 1994.

(e) In the event that necessary records are determined to be unrecoverable, it is the intent of the Legislature that the state agencies designated in subdivision (b) exempt the university from the requirement for report or other action as it applies to the Northridge campus.

(f) This section shall become inoperative on June 30, 1995.

SEC. 4. This act shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1996, deletes or extends that date.

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

In order that public colleges and universities affected by the Northridge Earthquake of January 17, 1994, have the special authority and assistance required to fully resume operation, it is necessary that this act take effect immediately.

CHAPTER 958

An act to amend Section 11402.5 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 11402.5 of the Welfare and Institutions Code is amended to read:

11402.5. (a) The federal government has provided the state the option of including in its state plan children placed in public child care institutions. Therefore, notwithstanding Section 11402 and subject to Section 15200.5, it is the intent of the Legislature that a child who is otherwise eligible for federal financial participation in the AFDC-FC payment may be eligible for aid under the provisions of this chapter when the child is placed in a public child care institution. Payment under the provisions of this section cannot exceed 30 days, except as provided in subdivision (b). This provision is effective only if and during such federal fiscal year when no restriction, as defined by the department, on federal matching for AFDC-FC payments exists. Pursuant to this section, the county shall request reimbursement at the close of the federal fiscal year. As used in this section, "public child care institution" means a nondetention facility which has been licensed in accordance with the Community Care Facilities Act, Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, and which has a licensed capacity not exceeding 25 children.

(b) When a child is hard to place, as defined in departmental regulations, and when the child is not placed in an emergency shelter, payment may be made under this section for a period not exceeding 90 days.

(c) Upon notification from the federal government that the restrictions on federal matching specified in subdivision (a) do not exist, the department shall amend the state plan to authorize federal financial participation to a county or counties operating a public child care institution with a licensed capacity exceeding 25 children.

(d) For purposes of subdivision (c), "public child care institution" includes only those facilities that meet all of the following requirements:

(1) It is temporary shelter care facility, as defined in Section 1530.8 of the Health and Safety Code.

(2) (A) Except as provided in subparagraph (B), it has a licensed capacity that does not exceed 200 children.

(B) A facility in Orange County may have a licensed capacity of not more than 236 children.

CHAPTER 959

An act to add Section 695.211 to the Code of Civil Procedure, and to amend Sections 4721 and 4729 of the Family Code, relating to support, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 695.211 is added to the Code of Civil Procedure, to read:

695.211. (a) Every money judgment or order for child support shall provide notice that interest on arrearages accrues at the legal rate.

(b) The notice provisions required by this section shall be incorporated in the appropriate Judicial Council forms.

(c) Upon implementation of the Statewide Automated Child Support System (SACSS) prescribed in Section 10815 of the Welfare and Institutions Code and certification of the SACSS by the United States Department of Health and Human Services, whenever a statement of account is issued by the district attorney in any child support action, the statement shall include a statement of an amount of current support, arrears, and interest due.

SEC. 2. Section 4721 of the Family Code is amended to read:

4721. (a) This chapter applies only to installments of child support that are due on or after January 1, 1992.

(b) It is the intent of the Legislature that the penalties provided under this chapter shall be applied in egregious instances of noncompliance with child support orders.

(c) It is the intent of the Legislature that for the purposes of this chapter, payments made through wage assignments are considered timely regardless of the date of receipt by the district attorney or obligee.

SEC. 3. Section 4729 of the Family Code is amended to read:

4729. The district attorney or any other agency providing support enforcement services pursuant to Title IV-D of the federal Social Security Act may not enforce child support obligations utilizing the penalties provided for by this chapter.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to clarify the law relative to child support as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 960

An act to amend Sections 1342 and 3258 of, and to add Section 1345 to, the Unemployment Insurance Code, relating to disability insurance.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 1342 of the Unemployment Insurance Code is amended to read:

1342. Any waiver by any person of any benefit or right under this code is invalid, except as provided by Sections 1255.7, 1345, and 2630. Benefits under this code, incentive payments provided by Division 2 (commencing with Section 5000), and payments to an individual under a plan or system established by an employer which makes provisions for his or her employees generally, or for a class or group of his or her employees, for the purpose of supplementing unemployment compensation benefits, are not subject to assignment, release, or commutation, except as provided by Sections 1255.7, 1345, and 2630. Any agreement by any individual in the employ of any person or concern to pay all or any portion of the contributions required of his or her employer under this division is void.

SEC. 2. Section 1345 is added to the Unemployment Insurance Code, to read:

1345. (a) An individual covered by a voluntary plan approved under Section 3254 may, at the time he or she applies for voluntary plan benefits or at any time while receiving voluntary plan benefits, voluntarily choose to allow his or her employer or an agent of the employer, appointed under Section 1096, to redirect a portion of the voluntary plan benefits payable under this code to cover all or part of the cost of employee-paid benefits, if both the following requirements are satisfied:

(1) The individual has given written authorization for the

redirection of a weekly dollar amount of voluntary plan benefits for the payment of the employee-paid benefits.

(2) The individual may terminate or change the terms of the voluntary redirection of benefits paid at any time while receiving benefits under the voluntary plan.

(b) Any request to redirect benefits as provided in subdivision (a) shall be in writing. The form of employee authorization required under this section shall be approved by the director.

(c) In no event shall disability benefits payments be delayed because an individual elects to redirect a portion of his or her benefits payable under this division.

(d) Should an individual be legally declared incompetent, the spouse of the individual, in the absence of any other legally authorized representative, shall have the right to continue or cancel the authorization.

SEC. 3. Section 3258 of the Unemployment Insurance Code is amended to read:

3258. If a voluntary plan does not provide for the assumption by an admitted disability insurer of the liability of the employer to pay the benefits afforded by the plan, the director shall not approve it unless the employer files with the director the bond of an admitted surety insurer conditioned on the payment by the employer of its obligations under the plan, deposits with the director securities approved by the director to secure the payment of the obligations, or deposits with the director an irrevocable letter of credit. The penal sum of the bond or the amount of the deposit of securities or letter of credit shall be determined by the director and shall be not less than the product obtained by multiplying the rate of worker contributions in the ensuing year, as determined in Section 984, by 0.5 of the estimated taxable wages prescribed by Section 985 to be paid to the employees for the ensuing year. Upon approval, the bond, money, or securities shall upon the director's written order be deposited with the Treasurer for the purpose specified in this section. The Treasurer shall give a receipt for the deposits and the state shall be responsible for the custody and safe return of any securities so deposited.

SEC. 4. Section 3 of this act amending Section 3258 of the Unemployment Insurance Code shall become operative upon filing with the Secretary of State regulations adopted by the Department of Employment Development pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to implement Section 3 of this act, and the regulations shall become effective immediately upon filing with the Secretary of State. However, in no event shall Section 3 of this act become operative later than May 31, 1995.

CHAPTER 961

An act to amend Section 16500.7 of, and to add Part 4.4 (commencing with Section 16600) to Division 9 of, the Welfare and Institutions Code, relating to families, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. (a) The Legislature finds and declares that approximately one hundred million dollars ($100,000,000) in federal funds is expected to be allocated to California for family preservation and support services pursuant to Sections 430 to 435, inclusive, of the Social Security Act (42 U.S.C. Sec. 629), as contained in the Omnibus Budget Reconciliation Act of 1993.

SEC. 2. It is the intent of the Legislature that those federal funds allocated to California pursuant to Sections 430 to 435, inclusive, of the Social Security Act, known in California as the Family Preservation and Support Program, shall be used to support, preserve, and strengthen families through the creation of a seamless service delivery system. These new federal funds are designed to support services and programs that promote family well-being and prevent problems from developing and to prevent a crisis from intensifying and thus making it necessary for a child to be removed from his or her home, a family preservation goal.

SEC. 3. It is also the intent of the Legislature to provide communities with an opportunity to improve outcomes for children and families by promoting broader changes in state and local service delivery systems. As a result, it is the intent of the Legislature that this funding should support broadly inclusive strategic planning processes through which communities develop a plan for using these moneys to support a coordinated, seamless system of services that includes both family support programs and family preservation services.

SEC. 4. The Legislature finds and declares that family support services are different from family preservation services because they do not have eligibility requirements, but they may be targeted at particular populations by being located in particular communities, and that the universal, voluntary nature of family support services is key to their effectiveness. The Legislature also finds and declares that the provisions of family support that are oriented to promotion and prevention can decrease the need for family preservation services or costly child welfare interventions, and that family support services can also be instrumental in sustaining the gains made by family preservation services.

SEC. 5. Section 16500.7 of the Welfare and Institutions Code is

amended to read:

16500.7. (a) (1) Commencing with the 1993–94 fiscal year, each county or city and county with a family preservation program pursuant to Section 16500.5, in operation at least three consecutive years, may request a permanent transfer of funds from the category of General Fund moneys appropriated for out-of-home placement provided pursuant to subdivision (d) of Section 11450 for children subject to Section 300, 301, 360, 361, or 364, and, as permitted by the department, children subject to Sections 601, 602, 726, and 727, and Section 7572.5 of the Government Code, for that county or city and county, to the category of child welfare services as specified in subdivision (j) of Section 16501 for the purposes of providing family preservation services. The county shall make the request to the department no later than 90 calendar days following the beginning of the fiscal year in which the permanent transfer is to be made, or 90 days following the date on which the annual Budget Act is chaptered, whichever is later.

(2) Notwithstanding paragraph (1), any county that has operated a family preservation program in accordance with Section 16500.5 for three consecutive years may request a permanent transfer of funds as described in paragraph (1) retroactively to July 1, 1993, provided the department determines that the county was adversely impacted by the implementation of Chapter 1006 of the Statutes of 1993, and provided the request is submitted no later than October 1, 1994.

(3) Any county that served children subject to Section 601 or 602, or Section 7572.5 of the Government Code, during the pilot phase may continue to serve the same populations after the permanent transfer described in this section.

(4) Subject to the approval of the department, a county may, at any time after the permanent transfer, request a supplemental permanent transfer to serve additional populations of eligible children who were not served during the pilot phase. The maximum amount that may be transferred pursuant to this paragraph is subject to the limits specified in clause (iii) of subparagraph (A) of paragraph (1) of subdivision (c) of Section 16500.5.

(5) For any county with an approved plan pursuant to Section 16500.5, the three-year period required by paragraph (1) may, at the discretion of the department, include any year in which a county has operated a family preservation program pursuant to Section 16500.5, that has been financed with county funds.

(b) The amount identified for transfer pursuant to this section shall be an amount up to 70 percent of the highest annual amount spent pursuant to Section 16500.5 and agreed to by both the county or city and county and the department as sufficient to maintain family preservation services at a level that ensures the continuation of an appropriate level of family preservation services on a permanent basis. This determination shall be made on a county-by-county basis, relying on the experience each county has with conducting its program under Section 16500.5.

(c) Beginning with the fiscal year in which the transfer takes place, each participating county or city and county shall be required to match these funds consistent with the matching requirements in place for other General Fund moneys appropriated and allocated to counties for child welfare services provided pursuant to Section 16501.

(d) Upon approval of the transfer, the department and the Department of Finance shall incorporate the transferred funding into the base funding allocations in later years provided to the participating counties for services provided under Section 16501.

(e) For counties receiving transfers pursuant to subdivision (a), the provisions of subdivision (c) of Section 16500.5, including the ability to claim additional advances on AFDC-FC funds in subparagraph (A) of paragraph (1) of that subdivision and the financial risk provisions in subparagraph (B) of paragraph (1) of that subdivision, shall no longer apply.

(f) (1) In enacting this section, the Legislature establishes the commitment to provide the means by which family preservation services may convert from pilot projects as established in Section 16500.5 to ongoing permanent programs. However, in order to assess the feasibility of the approach provided in this section, the Legislature has provided for the repeal of this section.

(2) Subject to paragraph (3), this section shall remain in effect only until six months following the execution of a declaration, that shall be retained by the director, stating that the department has secured a permanent stable federal funding source to support family preservation services, and as of that date shall be repealed.

(3) If the director does not execute the declaration described in paragraph (2) prior to January 1, 1997, this section shall become inoperative on July 1, 1997, and as of January 1, 1998, is repealed unless a later enacted statute, that becomes effective on or before January 1, 1998, deletes or extends the dates on which it becomes inoperative and is repealed.

(4) If the director executes the declaration described in paragraph (2), the department shall make reasonable arrangements to shift those counties operating a family preservation program under a memorandum of understanding with the department, to the newly federally funded family preservation program.

SEC. 6. Part 4.4 (commencing with Section 16600) is added to Division 9 of the Welfare and Institutions Code, to read:

PART 4.4. FAMILY PRESERVATION SERVICES

16600. (a) The department shall administer the Family Preservation and Support Program. The program shall meet the requirements established in Sections 430 to 435, inclusive, of the federal Social Security Act (Subpart 2 (commencing with Section 629) of Part B of subchapter 4 of Chapter 7 of Title 42 of the United States Code). Program functions shall be performed by other

agencies as required by law, by delegation of the department, or by cooperative agreements.

(b) Notwithstanding Section 10103, the department may retain and not pass on to the counties up to 15 percent of federal Family Preservation and Support Program funds for the purposes of state administrative costs incurred on or after October 1, 1993, including planning, monitoring, evaluation, training and technical assistance, or projects of statewide significance. Funds spent on projects of statewide significance shall be allocated in a way to ensure integration into the needs identified by the receiving counties. The department shall review and prioritize needs identified by counties in determining projects of statewide significance.

16601. (a) Family support services shall include those services that are primarily community-based preventive activities designed to alleviate stress and to promote parental competency and behavior that will increase the ability of families to successfully nurture their children, to enable families to use other resources and opportunities that are available in the community, to create supportive networks that enhance childrearing abilities of parents, and to help compensate for the increased social isolation and vulnerability of families.

(b) Family support services include, but are not limited to, an array of activities, such as home visitation, informal interactions in drop-in centers, parent education, information and referral service, family counseling services, respite care for parents and other caregivers, early development screening of children to assess the needs of these children and assistance in obtaining specific services to meet their needs, mentoring, literacy services, and health education for youth and parents.

16602. (a) Notwithstanding Section 16500, each county that chooses to participate in the Family Preservation and Support Program shall establish a local planning body and develop county plans as required by the department. The board of supervisors shall oversee the local planning process and approve each county plan before it is transmitted to the department for approval.

(b) Notwithstanding Section 16500, the county welfare department shall act as the county lead administrative agency to carry out the day-to-day planning activities. The county welfare department shall distribute and account for the program funds allocated to the county.

16604. (a) Not less than 50 percent and not more than 75 percent of the program funds spent on services each year by each county shall be spent on family support services.

(b) Not less than 25 percent and not more than 50 percent of the program funds spent on services each year by each county shall be spent on family preservation services.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into

immediate effect. The facts constituting the necessity are:

In order to ensure that timely input is received by the State Department of Social Services for development of a state plan for family preservation and support services, it is necessary that this act go into immediate effect.

CHAPTER 962

An act to amend Section 11755.4 of the Health and Safety Code, relating to alcohol and drug abuse, and making an appropriation therefor.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) An unknown but increasing number of runaway and homeless youths live in California's streets and are exposed to a web of drugs, crime, and pandering that may entangle their lives forever.

(b) Since 1986, California has funded projects, through the Office of Criminal Justice Planning, to meet the needs of runaway and homeless youths in San Francisco and Los Angeles.

(c) Statistical documentation from those projects has proved them to be an efficient and effective way to remove adolescents permanently from the streets and place them back into the mainstream of life.

(d) Despite the success of those projects, there is a continuing gap in services for the estimated 50 percent to 85 percent of runaway and homeless youths who have substance abuse problems.

(e) In 1989, the County of Los Angeles calculated out of all runaway youths seeking medical assistance, 75 percent of those engaged in prostitution had a substance abuse problem, compared to 36 percent of those not engaged in prostitution.

(f) Sixty-three percent of those juvenile prostitutes with substance abuse problems do not believe that they have a substance abuse problem. As a result, they do not seek help. For this reason, an outreach program is vital to ensure that these youths are treated for substance abuse problems.

(g) Juvenile prostitutes not only have higher rates of alcohol and drug abuse, but also have a higher rate of suicide, criminal activity, HIV infection, and mental health disorders. Juvenile prostitutes also have the lowest rate of successful reunification with their families.

SEC. 2. Section 11755.4 of the Health and Safety Code is amended to read:

11755.4. (a) To the extent funding is provided pursuant to

subdivision (c), a two and one-half year program shall be established by the homeless youth projects operated in the County of Los Angeles and the City and County of San Francisco pursuant to Chapter 6 (commencing with Section 13700) of Part 3 of Division 9 of the Welfare and Institutions Code to operate an outreach program targeted at treating substance abuse problems of substance-dependent homeless youth, including juvenile prostitutes. The department shall, in consultation with the Office of Criminal Justice Planning, develop guidelines for the scope of the program established pursuant to this section, including, but not limited to, requiring outreach to all shelters and drop-in facilities operated by the homeless youth project established in the County of Los Angeles and the City and County of San Francisco. The department also shall, in consultation with the Office of Criminal Justice Planning, oversee the management of the program established pursuant to this section.

(b) To the extent permitted by federal law, commencing January 1, 1995, the department shall enter into separate contracts in the amount of one hundred twenty-five thousand dollars ($125,000) for the remainder of the 1994–95 fiscal year, and two hundred fifty thousand dollars ($250,000) for each of the following two fiscal years, for each contract with the homeless youth project established in the County of Los Angeles and with the project established in the City and County of San Francisco for the operation of the program pursuant to this section. Contract terms shall be in accord with the terms and conditions of the funding.

(c) The program established pursuant to this section shall cease to operate on June 30, 1997.

SEC. 3. The sum of one million two hundred fifty thousand dollars ($1,250,000) is hereby appropriated from unencumbered federal trust funds available for purposes of Section 11755.4 of the Health and Safety Code for expenditure by the State Department of Alcohol and Drug Programs for purposes of subdivision (b) of Section 11755.4 of the Health and Safety Code in accordance with the following schedule:

(a) For the remainder of the 1994–95 fiscal year, two hundred fifty thousand dollars ($250,000) of the total sum is hereby appropriated from unexpended federal funds.

(b) For the 1995–96 and 1996–97 fiscal years, the sum of five hundred thousand dollars ($500,000) per year is hereby appropriated annually from the federal Substance Abuse Prevention and Treatment Block Grant funds.

The funds that are appropriated for the project in the County of Los Angeles shall be transferred by the State Department of Alcohol and Drug Programs to the County of Los Angeles. The county shall expend these funds solely for purposes of the contract with the Los Angeles Children's Hospital, where the project is administered. The county may retain a portion of these funds that reflects the actual administrative costs, if any, incurred by the county in making this expenditure.

(c) The obligations of the City and County of San Francisco and the County of Los Angeles to provide services under their respective programs shall be limited to the amount of funds provided in the section adding this act. However, additional funds, with the exception of federal block grant funds, may be expended by either or both programs to the extent that other nonstate sources of funding become available.

SEC. 4. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 963

An act to amend Section 3201.5 of the Labor Code, relating to workers' compensation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 3201.5 of the Labor Code is amended to read:

3201.5. (a) Except as provided in subdivisions (b) and (c), the Department of Industrial Relations and the courts of this state shall recognize as valid and binding any provision in a collective bargaining agreement between a private employer or groups of employers engaged in construction, construction maintenance, or activities limited to rock, sand, gravel, cement and asphalt operations, heavy-duty mechanics, surveying, and construction inspection and a union that is the recognized or certified exclusive bargaining representative that establishes any of the following:

(1) An alternative dispute resolution system governing disputes between employees and employers or their insurers that supplements or replaces all or part of those dispute resolution processes contained in this division, including, but not limited to, mediation and arbitration. Any system of arbitration shall provide that the decision of the arbiter or board of arbitration is subject to review by the appeals board in the same manner as provided for

reconsideration of a final order, decision, or award made and filed by a workers' compensation judge pursuant to the procedures set forth in Article 1 (commencing with Section 5900) of Chapter 7 of Part 4 of Division 4, and the court of appeals pursuant to the procedures set forth in Article 2 (commencing with Section 5950) of Chapter 7 of Part 4 of Division 4, governing orders, decisions, or awards of the appeals board. The findings of fact, award, order, or decision of the arbitrator shall have the same force and effect as an award, order, or decision of a workers' compensation judge. Any provision for arbitration established pursuant to this section shall not be subject to Sections 5270, 5270.5, 5271, 5272, 5273, 5275, and 5277.

(2) The use of an agreed list of providers of medical treatment that may be the exclusive source of all medical treatment provided under this division.

(3) The use of an agreed, limited list of qualified medical evaluators and agreed medical evaluators that may be the exclusive source of qualified medical evaluators and agreed medical evaluators under this division.

(4) Joint labor management safety committees.

(5) A light-duty, modified job or return-to-work program.

(6) A vocational rehabilitation or retraining program utilizing an agreed list of providers of rehabilitation services that may be the exclusive source of providers of rehabilitation services under this division.

(b) Nothing in this section shall allow a collective bargaining agreement that diminishes the entitlement of an employee to compensation payments for total or partial disability, temporary disability, vocational rehabilitation, or medical treatment fully paid by the employer as otherwise provided in this division. The portion of any agreement that violates this subdivision shall be declared null and void.

(c) Subdivision (a) shall apply only to the following:

(1) An employer developing or projecting an annual workers' compensation insurance premium, in California, of two hundred fifty thousand dollars ($250,000) or more, or any employer that paid an annual workers' compensation insurance premium, in California, of two hundred fifty thousand dollars ($250,000) in at least one of the previous three years.

(2) Groups of employers engaged in a workers' compensation safety group complying with Sections 11656.6 and 11656.7 of the Insurance Code, and established pursuant to a joint labor management safety committee or committees, which develops or projects annual workers' compensation insurance premiums of two million dollars ($2,000,000) or more.

(3) Employers or groups of employers that are self-insured in compliance with Section 3700 that would have projected annual workers' compensation costs that meet the requirements of, and that meet the other requirements of, paragraph (1) in the case of employers, or paragraph (2) in the case of groups of employers.

(4) Employers covered by an owner or general contractor provided wrap-up insurance policy applicable to a single construction site that develops workers' compensation insurance premiums of two million dollars ($2,000,000) or more with respect to those employees covered by that wrap-up insurance policy.

(d) Employers and labor representatives who meet the eligibility requirements of this section shall be issued a letter by the administrative director advising each employer and labor representative that, based upon the review of all documents and materials submitted as required by the administrative director, each has met the eligibility requirements of this section.

(e) The premium rate for a policy of insurance issued pursuant to this section shall not be subject to the requirements of Section 11732 or 11732.4 of the Insurance Code.

(f) No employer may establish or continue a program established under this section until it has provided the administrative director with all of the following:

(1) Upon its original application and whenever it is renegotiated thereafter, a copy of the collective bargaining agreement and the approximate number of employees who will be covered thereby.

(2) Upon its original application and annually thereafter, a valid and active license where that license is required by law as a condition of doing business in the state within the industries set forth in subdivision (a) of Section 3201.5.

(3) Upon its original application and annually thereafter, a statement signed under penalty of perjury, that no action has been taken by any administrative agency or court of the United States to invalidate the collective bargaining agreement.

(4) The name, address, and telephone number of the contact person of the employer.

(5) Any other information that the administrative director deems necessary to further the purposes of this section.

(g) No collective bargaining representative may establish or continue to participate in a program established under this section unless all of the following requirements are met:

(1) Upon its original application and annually thereafter, it has provided to the administrative director a copy of its most recent LM-2 or LM-3 filing with the United States Department of Labor, along with a statement, signed under penalty of perjury, that the document is a true and correct copy.

(2) It has provided to the administrative director the name, address, and telephone number of the contact person or persons of the collective bargaining representative or representatives.

(h) Commencing July 1, 1995, and annually thereafter, the Division of Workers' Compensation shall report to the Director of the Department of Industrial Relations the number of collective bargaining agreements received and the number of employees covered by these agreements.

(i) By June 30, 1996, the Administrative Director of the Division

of Workers' Compensation shall prepare and notify Members of the Legislature that a report authorized by this section is available upon request. The report based upon aggregate data shall include the following:

(1) Person hours and payroll covered by agreements filed.

(2) The number of claims filed.

(3) The average cost per claim shall be reported by cost components whenever practicable.

(4) The number of litigated claims, including the number of claims submitted to mediation, the appeals board, or the court of appeals.

(5) The number of contested claims resolved prior to arbitration.

(6) The projected incurred costs and actual costs of claims.

(7) Safety history.

(8) The number of workers participating in vocational rehabilitation.

(9) The number of workers participating in light-duty programs.

The division shall have the authority to require those employers and groups of employers listed in subdivision (c) to provide the data listed above.

(j) The data obtained by the administrative director pursuant to this section shall be confidential and not subject to public disclosure under any law of this state. However, the Division of Workers' Compensation shall create derivative works pursuant to subdivisions (h) and (i) based on the collective bargaining agreements and data. Those derivative works shall not be confidential, but shall be public. On a monthly basis the administrative director shall make available an updated list of employers and unions entering into collective bargaining agreements containing provisions authorized by this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to make changes necessary for the proper implementation of a program that has already been authorized and for which implementation has already begun, it is necessary for this act to take effect immediately.

CHAPTER 964

An act to amend Section 14132.95 of the Welfare and Institutions Code, relating to human services.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 14132.95 of the Welfare and Institutions Code is amended to read:

14132.95. (a) Personal care services, when provided to a categorically needy person as defined in Section 14050.1 is a covered benefit to the extent federal financial participation is available if these services are:

(1) Provided in the beneficiary's home and other locations as may be authorized by the director subject to federal approval.

(2) Authorized by county social services staff in accordance with a plan of treatment.

(3) Provided by a qualified person.

(4) Provided to a beneficiary who has a chronic, disabling condition that causes functional impairment that is expected to last at least 12 consecutive months or that is expected to result in death within 12 months and who is unable to remain safely at home without the services described in this section.

(b) The department shall seek federal approval of a state plan amendment necessary to include personal care as a medicaid service pursuant to subdivision (f) of Section 440.170 of Title 42 of the Code of Federal Regulations.

(c) Subdivision (a) shall not be implemented unless the department has obtained federal approval of the state plan amendment described in subdivision (b), and the Department of Finance has determined, and has informed the department in writing, that the implementation of this section will not result in additional costs to the state relative to state appropriation for in-home supportive services under Article 7 (commencing with Section 12300) of Chapter 3, in the 1992–93 fiscal year.

(d) (1) For purposes of this section, personal care services shall mean all of the following:

(A) Assistance with ambulation.

(B) Bathing, oral hygiene and grooming.

(C) Dressing.

(D) Care and assistance with prosthetic devices.

(E) Bowel, bladder, and menstrual care.

(F) Skin care.

(G) Repositioning, range of motion exercises, and transfers.

(H) Feeding and assurance of adequate fluid intake.

(I) Respiration.

(J) Paramedical services.

(K) Assistance with self-administration of medications.

(2) Ancillary services including meal preparation and cleanup, routine laundry, shopping for food and other necessities, and domestic services may also be provided as long as these ancillary services are subordinate to personal care services. Ancillary services may not be provided separately from the basic personal care services.

(e) (1) (A) After consulting with the State Department of Social Services, the department shall adopt emergency regulations to establish the amount, scope, and duration of personal care services available to persons described in subdivision (a) in the fiscal year whenever the department determines that General Fund expenditures for personal care services provided under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3, are expected to exceed the General Fund appropriation and the federal appropriation under Title XX of the federal Social Security Act provided for the 1992–93 fiscal year pursuant to Article 7 (commencing with Section 12300) of Chapter 3, as it read on June 30, 1992, as adjusted for caseload growth or as increased in the Budget Act or appropriated by statute. At least 30 days prior to filing these regulations with the Secretary of State, the department shall give notice of the expected content of these regulations to the fiscal committees of both houses of the Legislature.

(B) In establishing the amount, scope, and duration of personal care services, the department shall ensure that General Fund expenditures for personal care services provided for under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3, do not exceed the General Fund appropriation and the federal appropriation under Title XX of the federal Social Security Act provided for the 1992–93 fiscal year pursuant to Article 7 (commencing with Section 12300) of Chapter 3, as it read on June 30, 1992, as adjusted for caseload growth or as increased in the Budget Act or appropriated by statute.

(C) For purposes of this subdivision, "caseload growth" means an adjustment factor determined by the department based on (1) growth in the number of persons eligible for benefits under Chapter 3 (commencing with Section 12000) on the basis of their disability, (2) the average increase in the number of hours in the program established pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in the 1988–89 to 1992–93 fiscal years, inclusive, due to the level of impairment, and (3) any increase in program costs that is required by an increase in the mandatory minimum wage.

(2) In establishing the amount, scope, and duration of personal care services pursuant to this subdivision, the department may

define and take into account, among other things:

(A) The extent to which the particular personal care services are essential or nonessential.

(B) Standards establishing the medical necessity of the services to be provided.

(C) Utilization controls.

(D) A minimum number of hours of personal care services that must first be assessed as needed as a condition of receiving personal care services pursuant to this section.

The level of personal care services shall be established so as to avoid, to the extent feasible within budgetary constraints, medical out-of-home placements.

(3) To the extent that General Fund expenditures for services provided under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in the 1992–93 fiscal year, adjusted for caseload growth, exceed General Fund expenditures for services provided under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in any fiscal year, the excess of these funds shall be expended for any purpose as directed in the Budget Act or as otherwise statutorily disbursed by the Legislature.

(f) Services pursuant to this section shall be rendered, under the administrative direction of the State Department of Social Services, in the manner authorized in Article 7 (commencing with Section 12300) of Chapter 3, for the In-Home Supportive Services program. A provider of personal care services shall be qualified to provide the service and shall be a person other than a member of the family. For purposes of this section, a family member means a parent of a minor child or a spouse.

(g) A beneficiary who is eligible for assistance under this section shall receive services that do not exceed 283 hours per month of personal care services.

(h) Personal care services shall not be provided to residents of facilities licensed by the department, and shall not be provided to residents of a community care facility or a residential care facility for the elderly licensed by the Community Care Licensing Division of the State Department of Social Services.

(i) Subject to any limitations that may be imposed pursuant to subdivision (e), determination of need and authorization for services shall be performed in accordance with Article 7 (commencing with Section 12300) of Chapter 3.

(j) (1) To the extent permitted by federal law, reimbursement rates for personal care services shall be equal to the rates in each county for the same mode of services in the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3, plus any increase provided in the annual Budget

Act for personal care services rates or included in a county budget pursuant to paragraph (2).

(2) (A) The department shall establish a provider reimbursement rate methodology to determine payment rates for the individual provider mode of service that does all of the following:

(i) Is consistent with the functions and duties of entities created pursuant to Section 12301.6.

(ii) Makes any additional expenditure of state general funds subject to appropriation in the annual Budget Act.

(iii) Permits county-only funds to draw down federal financial participation consistent with federal law.

(B) This ratesetting method shall be in effect in time for any rate increases to be included in the annual Budget Act.

(C) The department may, in establishing the ratesetting method required by subparagraph (A), do both of the following:

(i) Deem the market rate for like work in each county, as determined by the Employment Development Department, to be the cap for increases in payment rates for individual practitioner services.

(ii) Provide for consideration of county input concerning the rate necessary to ensure access to services in that county.

(D) If an increase in individual practitioner rates is included in the annual Budget Act, the state-county sharing ratio shall be as established in Section 12306. If the annual Budget Act does not include an increase in individual practitioner rates, a county may use county-only funds to meet federal financial participation requirements consistent with federal law.

(3) (A) By November 1, 1993, the department shall submit a state plan amendment to the federal Health Care Financing Administration to implement this subdivision. To the extent that any element or requirement of this subdivision is not approved, the department shall submit a request to the federal Health Care Financing Administration for such waivers as would be necessary to implement this subdivision.

(B) The provider reimbursement ratesetting methodology authorized by the amendments to this subdivision in the 1993–94 Regular Session of the Legislature shall not be operative until all necessary federal approvals have been obtained.

(k) (1) The State Department of Social Services shall, by September 1, 1993, notify the following persons that they are eligible to participate in the personal care services program:

(A) Persons eligible for services pursuant to the Pickle Amendment, as adopted October 28, 1976.

(B) Persons eligible for services pursuant to subsection (c) of Section 1383c of Title 42 of the United States Code.

(2) The State Department of Social Services shall, by September 1, 1993, notify persons to whom paragraph (1) applies and who receive advance payment for in-home supportive services that they will qualify for services under this section without a share of cost if

they elect to accept payment for services on an arrears rather than an advance payment basis.

(3) Upon request by the board of supervisors, of the funds in the subaccount created pursuant to Section 17600.110, the Controller shall allocate the following amounts for the establishment of an entity specified in Section 12301.6:

(A) Two hundred fifty thousand dollars ($250,000) each to a county of the fourth, sixth, and tenth class.

(B) Two million dollars ($2,000,000) to a county of the first class.

(C) Five hundred fifty thousand dollars ($550,000) shall be allocated to counties, in the order of application by counties for these funds, as follows:

(i) Not more than one hundred thousand dollars ($100,000) may be allocated to a county with a total of fewer than 3,000 recipients of services under this section and Article 7 (commencing with Section 12300) of Chapter 3.

(ii) Not more than two hundred thousand dollars ($200,000) may be allocated to a county with a total of more than 3,000 recipients of services under this section and Article 7 (commencing with Section 12300) of Chapter 3.

(iii) A county to whom either subparagraph (A) or (B) applies shall not be eligible for funds under this subparagraph.

(*l*) An individual who is eligible for services subject to the maximum amount specified in subdivision (b) of Section 12303.4 shall be given the option of hiring his or her own provider.

(m) The county welfare department shall inform in writing any individual who is potentially eligible for services under this section of his or her right to the services.

(n) It is the intent of the Legislature that this entire section be an inseparable whole and that no part of it be severable. If any portion of this section is found to be invalid, as determined by a final judgment of a court of competent jurisdiction, this section shall become inoperative.

(o) Paragraphs (2) and (3) of subdivision (a) shall be implemented so as to conform to federal law authorizing their implementation.

(p) This section shall become inoperative on July 1, 1996, and, as of January 1, 1997, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1997, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. (a) No later than March 1, 1995, the State Department of Social Services shall report all of the following to the appropriate committees of the Legislature:

(1) The extent to which applicable state statutes and regulations regarding eligibility for in-home supportive services is in compliance with Public Law 99-643, the Employment Opportunities for Disabled Americans Act.

(2) What actions are necessary to secure full compliance with any federal mandates imposed by Public Law 99-643, if any.

(3) A timetable for achieving compliance with Public Law 99-643.
(4) An analysis of the fiscal impact and funding necessary to achieve full compliance with Public Law 99-643.

CHAPTER 965

An act to add Article 5 (commencing with Section 12990) to Chapter 2 of Division 3 of the Insurance Code, relating to insurance.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Article 5 (commencing with Section 12990) is added to Chapter 2 of Division 3 of the Insurance Code, to read:

Article 5. Fee Oversight

12990. The department shall adopt an accounting system, as recommended by the State Auditor in Report No. 93030, that will allow the department to accurately identify costs by the regulatory activities and to link the costs to fees collected for those regulatory activities.

12991. On and after October 1, 1995, the department may not levy any fee or fees under Section 736 or 12979 unless the fees are created in compliance with Sections 12992 and 12993.

12992. (a) The department shall determine the actual cost of providing each examination as authorized under Section 730 and following. The department shall then set each fee levied under Section 736 to be based on the actual cost of providing the examination.

(b) The department shall determine the actual administrative and operational costs arising from the provisions of Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1. The department shall then set the fees assessed under Section 12979 to be based on the actual administrative and operational costs arising from the provisions of Article 10 (commencing with Section 1861.01) of Chapter 9 of Part 2 of Division 1.

12993. The department shall provide the schedule of fees created under Section 12992, as well as the justification that the fees are based on the actual cost of the regulatory activity, to the Department of Finance, the Legislative Analyst, and the insurance committees in each house of the Legislature.

12994. On or before October 1, 1995, the department shall publish a schedule of all fees levied under Sections 736 and 12979. The fees shall be calculated in accordance with Sections 12992 and 12993. On or before January 15, 1996, the Bureau of State Audits shall complete

an audit of the schedule of fees created by this section. The audit shall determine if the fees are in compliance with Section 12992.

SEC. 2. The Legislature finds and declares that one of the stated purposes of Proposition 103 was to reduce the cost of insurance premiums; that Proposition 103 required insurers to "pay a fee to cover the costs of administering these new laws so that this reform will cost taxpayers nothing;" and that ultimately, those fees are passed on to insurance purchasers in the form of higher insurance premiums.

The Legislature finds and declares that it is in the best interests of California insurance purchasers that the fees paid for the enforcement of Proposition 103 not be excessive, and that those fees should not be spent for any other purpose than that for which they were collected, and therefore declares that the amendment to Section 12979 of the Insurance Code proposed by this act furthers the purposes of Proposition 103.

CHAPTER 966

An act to add Section 1569.74 to the Health and Safety Code, and to add Section 4753 to the Probate Code, relating to health care.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) A competent adult has a right to accept or refuse any health care treatment or procedure, including, but not limited to, the right to refuse resuscitation in instances of cardiac or respiratory arrest. This right exists in prehospital settings as well as in hospital and other clinical settings.

(b) This right is critical for the frail and elderly residents of residential care facilities for the elderly.

(c) The state has an interest in protecting an individual's right to accept or refuse health care.

(d) A mechanism for honoring the individual's refusal of heroic resuscitative measures is in the interest of the public health and welfare.

SEC. 2. Section 1569.74 is added to the Health and Safety Code, immediately following Section 1569.73, to read:

1569.74. (a) Licensed residential care facilities for the elderly that employ health care providers may establish policies to honor a request to forego resuscitative measures as defined in subdivision (b) of Section 4753 of the Probate Code.

(b) Any policy established pursuant to subdivision (a) shall meet

all of the following conditions:

(1) The policy shall be in writing and specify procedures to be followed in implementing the policy.

(2) The policy and procedures shall, at all times, be available in the facility for review by the department.

(3) The licensee shall ensure that all staff are aware of the policy as well as the procedures to be followed in implementing the policy.

(4) A copy of the policy shall be given to each resident who makes a request to forego resuscitative measures, and the resident's primary physician.

(5) A copy of the resident's request to forego resuscitative measures shall be maintained in the facility and shall be immediately available for review by facility staff, the licensed health care provider, and the department.

(6) Facility staff are prohibited, on behalf of any resident, from signing any directive document as a witness or from being the legally recognized surrogate decisionmaker.

(7) The facility shall provide the resident's physician with a copy of the resident's request to forego resuscitative measures form.

(c) Any action by a facility that has established policies pursuant to subdivision (a), to honor a resident's request to forego resuscitative measures as provided for in subdivision (a) may only be taken by a licensed health care provider who is employed by the facility and on the premises at the time of the life threatening emergency.

(d) Licensed residential care facilities for the elderly that have not established policies pursuant to subdivision (a), may keep an executed request to forego resuscitative measures form in the resident's file and present it to an emergency medical technician or paramedic when authorized to do so in writing by the resident or his or her legally recognized surrogate decisionmaker. The request may be honored by an emergency medical technician or by any health care provider as defined in Section 4753 of the Probate Code, who, in the course of professional or volunteer duties, responds to emergencies.

SEC. 3. Section 4753 is added to the Probate Code, to read:

4753. (a) A health care provider who honors a request to forego resuscitative measures, as defined in subdivision (b), shall not be subject to criminal prosecution, civil liability, discipline for unprofessional conduct, administrative sanction, or any other sanction, as a result of his or her reliance upon that request, if the health care provider: (1) believes in good faith that the action or decision is consistent with this section, and (2) has no knowledge that the action or decision would be inconsistent with a health care decision that the individual signing the request would have made on his or her own behalf under like circumstances.

(b) A "request to forego resuscitative measures" shall be a written document, signed by the individual, or a legally recognized surrogate health care decisionmaker and a physician and surgeon, that directs

a health care provider to forego resuscitative measures. For the purpose of this section, a "request to forego resuscitative measures" shall include a prehospital "do not resuscitate" form as developed by the Emergency Medical Services Authority or other substantially similar form. A request to forego resuscitative measures may also be evidenced by a medallion engraved with the words "do not resuscitate" or the letters "DNR", a patient identification number, and a 24-hour toll-free telephone number, issued by a person pursuant to an agreement with the Emergency Medical Services Authority.

(c) Request to forego resuscitative measures forms printed after January 1, 1995, shall contain the following:

"By signing this form, the surrogate acknowledges that this request to forego resuscitative measures is consistent with the known desires of, and with the best interest of, the individual who is the subject of the form."

(d) A substantially similar printed form shall be valid and enforceable if all of the following conditions are met:

(1) It is signed by the individual, or the individual's legally recognized surrogate health care decisionmaker and a physician and surgeon.

(2) It directs health care providers to forego resuscitative measures.

(3) It contains all other information required by this section.

(e) In the absence of knowledge to the contrary, a health care provider may presume that a request to forego resuscitative measures is valid and unrevoked.

(f) This section shall apply whether the individual is within or outside a hospital or other health care facility.

(g) For purposes of this section "health care provider" shall include, but not be limited to, those persons described in Section 4615, and emergency response employees, including, but not limited to, firefighters, law enforcement officers, emergency medical technicians I and II, paramedics, or employees or volunteer members of legally organized and recognized volunteer organizations, who are trained in accordance with standards adopted as regulations by the Emergency Medical Services Authority pursuant to Sections 1797.170, 1797.171, 1797.172, 1797.182, and 1797.183 of the Health and Safety Code to respond to medical emergencies in the course of performing their volunteer or employee duties with the organization.

(h) This section does not repeal or narrow current laws relating to health care decisionmaking, including the provisions governing the use of the Durable Power of Attorney for Health Care contained in this chapter, and the provisions relating to the use of declarations concerning life sustaining treatments pursuant to the Natural Death Act (Chapter 3.9 (commencing with Section 7185) of Part 1 of Division 7 of the Health and Safety Code).

CHAPTER 967

An act to amend Sections 409, 634.5, 1253, and 2708 of, to add Sections 995, 1143, and 2614 to, and to repeal and add Section 2116 of, the Unemployment Insurance Code, relating to unemployment compensation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 409 of the Unemployment Insurance Code is amended to read:

409. The chairperson shall assign cases before the board to any two members of the board for consideration and decision. Assignments by the chairperson of members to the cases shall be rotated so as to equalize the workload of the members, but with the composition of the members so assigned being varied and changed to assure that there shall never be a fixed and continuous composition of members. Except as otherwise provided, the decision of the two members assigned the case shall be the decision of the appeals board. In the event that the two members do not concur in the decision, the chairperson or another member of the board designated by the chairperson shall be assigned to the panel and shall resolve the impasse. A case shall be considered and decided by the appeals board acting as a whole at the request of any member of the appeals board.

The appeals board shall meet as a whole when the chairperson may direct to consider and pass on any matters that the chairperson may bring before it, and to consider and decide cases that present issues of first impression or that will enable the appeals board to achieve uniformity of decisions by the respective members.

The appeals board, acting as a whole, may designate certain of its decisions as precedents. Precedent decisions shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code. The appeals board, acting as a whole, may, on its own motion, reconsider a previously issued decision solely to determine whether or not the decision shall be designated as a precedent decision. Decisions of the appeals board acting as a whole shall be by a majority vote of its members. The director and the appeals board administrative law judges shall be controlled by those precedents except as modified by judicial review.

The decisions of the appeals board shall contain a statement of the facts upon which the decision is based, and a statement of the decision itself and the reasons for the decision. If the appeals board issues decisions other than those designated as precedent decisions, anything incorporated in those decisions shall be physically attached to and be made a part of the decisions. The appeals board shall

maintain an index of significant legal and policy determinations made in precedent decisions. The index shall be updated at least annually, unless no precedent decision has been designated since the most recent update. The index shall be made available to the public by subscription, and its availability shall be publicized annually in the California Regulatory Notice Register. The appeals board may make a reasonable charge as it deems necessary to defray the costs of publication and distribution.

SEC. 1.5. Section 634.5 of the Unemployment Insurance Code is amended to read:

634.5. Notwithstanding any other provision of this code or any other code or law, no provision of this code or any other code or law excluding service from "employment" shall apply to any public entity defined by Section 605 or to any nonprofit organization described by Section 608, except as provided by this section. With respect to any public entity defined by Section 605 or any nonprofit organization described by Section 608, "employment" does not include service excluded under Sections 629, 631, 635, and 639 to 648, inclusive, or service performed in any of the following:

(a) In the employ of (1) a church or convention or association of churches or (2) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches.

(b) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by the order.

(c) In the employ of any public entity defined by Section 605, if the service is performed by an individual in the exercise of his or her duties as any of the following:

(1) An elected official.

(2) A member of a legislative body, or a member of the judiciary, of a state or political subdivision thereof.

(3) A member of a State National Guard or Air National Guard.

(4) An employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency.

(5) In a position which, under or pursuant to state law, is designated as either of the following:

(A) A major nontenured policymaking or advisory position.

(B) A policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

(6) As an election official or election worker if the amount of remuneration reasonably expected to be received by the individual during the calendar year for services as an election official or election worker is less than two hundred dollars ($200), provided that this paragraph shall not take effect unless and until the service is excluded from service to which paragraph (1) of subdivision (a) of Section 3309 of the federal Unemployment Tax Act (26 U.S.C. Sec.

3301 et seq.) applies by reason of exemption under subdivision (b) of Section 3309 of that act.

(d) Except as provided by Section 605.5, by an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of either:

(1) Rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury; or

(2) Providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market.

(e) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving work relief or work training.

(f) By a ward or an inmate of a custodial or penal institution pursuant to Article 1 (commencing with Section 2700), Article 4 (commencing with Section 2760), and Article 5 (commencing with Section 2780) of Chapter 5 of, and Article 1 (commencing with Section 2800) of Chapter 6 of, Title 1 of Part 3 of the Penal Code, Section 4649 and Chapter 1 (commencing with Section 4951) of Part 4 of Division 4 of the Public Resources Code, and Sections 883, 884, and 1768 of the Welfare and Institutions Code.

(g) By an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(h) By an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him or her at a fixed price, his or her compensation being based on retention of the excess of the price over the amount at which the newspapers or magazines are charged to him or her whether or not he or she is guaranteed a minimum amount of compensation for the service, or is entitled to be credited with the unsold newspapers or magazines turned back.

(i) As a substitute employee whose employment does not increase the size of the employer's normal work force, whose employment is required by law, and whose employment as a substitute employee does not occur on more than 60 days during the base period, except that this subdivision shall not take effect unless and until the United States Secretary of Labor, or his or her designee, finds that this subdivision is in conformity with federal requirements.

This section shall become operative on July 1, 1978.

SEC. 1.7. Section 995 is added to the Unemployment Insurance Code, to read:

995. The department shall submit to the Legislature in May and October of each year a report on the status of the Unemployment Fund and the Unemployment Compensation Disability Fund. Each report shall include both actual and forecasted information on the fund balances, receipts, disbursements, claim data, tax rates, and

employment levels.

SEC. 2. Section 1143 is added to the Unemployment Insurance Code, to read:

1143. If the director finds that any individual falsely certifies the medical condition of any person in order to obtain disability insurance benefits, with the intent to defraud, whether for the maker or for any other person, the director shall assess a penalty against the individual in the amount of 25 percent of the benefits paid as a result of the false certification. The provisions of this article, the provisions of Article 9 (commencing with Section 1176) with respect to refunds, and the provisions of Chapter 7 (commencing with Section 1701) with respect to collections shall apply to the assessments provided by this section. Penalties collected under this section shall be deposited in the contingent fund.

SEC. 3. Section 1253 of the Unemployment Insurance Code is amended to read:

1253. An unemployed individual is eligible to receive unemployment compensation benefits with respect to any week only if the director finds that:

(a) A claim for benefits with respect to that week has been made in accordance with authorized regulations.

(b) He or she has registered for work, and thereafter continued to report, at a public employment office or any other place as the director may approve. Either or both of the requirements of this subdivision may be waived or altered by authorized regulation as to partially employed individuals attached to regular jobs.

(c) He or she was able to work and available for work for that week.

(d) He or she has been unemployed for a waiting period of one week as defined in Section 1254, unless this waiting period has been waived pursuant to Section 8571 of the Government Code.

(e) He or she conducted a search for suitable work in accordance with specific and reasonable instructions of a public employment office.

(f) He or she participated, as required by the director, in reemployment activities such as orientation and assessment, if the individual has been identified pursuant to an automated profiling system as likely to exhaust regular unemployment benefits. This requirement shall not apply to an individual who has shown good cause for failure to participate in reemployment activities.

SEC. 4. Section 2116 of the Unemployment Insurance Code is repealed.

SEC. 5. Section 2116 is added to the Unemployment Insurance Code, to read:

2116. It is unlawful to do any of the following:

(a) Falsely certify the medical condition of any person in order to obtain disability insurance benefits, whether for the maker or for any other person.

(b) Knowingly present or cause to be presented any false or

fraudulent written or oral material statement in support of any claim for disability insurance benefits.

(c) Knowingly solicit, receive, offer, pay, or accept any rebate, refund, commission, preference, patronage, dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for soliciting a claimant to apply for disability insurance benefits unless the payment is lawful pursuant to Section 650 of the Business and Professions Code.

(d) Knowingly assist, abet, solicit, or conspire with any person who engages in an unlawful act under this section.

SEC. 6. Section 2614 is added to the Unemployment Insurance Code, to read:

2614. The director shall report to the Legislature by June 30 of each year on the department's fraud deterrence and detection activities.

SEC. 7. Section 2708 of the Unemployment Insurance Code is amended to read:

2708. (a) In accordance with the director's authorized regulations, and except as provided in Sections 2708.1 and 2709, a claimant shall establish medical eligibility for each uninterrupted period of disability by filing a first claim for disability benefits supported by the certificate of a treating physician or practitioner. For subsequent periods of uninterrupted disability after the period covered by the initial certificate or any preceding continued claim, a claimant shall file a continued claim for those benefits supported by the certificate of a treating physician or practitioner. The certificate shall contain a diagnosis and diagnostic code prescribed in the International Classification of Diseases, or, where no diagnosis has yet been obtained, a detailed statement of symptoms.

The certificate shall also contain a statement of medical facts including secondary diagnoses when applicable, within the physician's or practitioner's knowledge, based on a physical examination and a documented medical history of the claimant by the physician or practitioner, indicating his or her conclusion as to the claimant's disability, and a statement of his or her opinion as to the expected duration of the disability.

(b) The first and any continuing claim of an individual who obtains care and treatment outside this state, shall be supported by a certificate of a treating physician or practitioner duly licensed or certified by the state or foreign country in which the claimant is receiving the care and treatment. If a physician or practitioner licensed by and practicing in a foreign country is under investigation by the department for filing false claims and the department does not have legal remedies to conduct a criminal investigation or prosecution in that country, the department may suspend the processing of all further certifications until the physician or practitioner fully cooperates, and continues to cooperate with the investigation. A physician or practitioner licensed by and practicing in a foreign country who has been convicted of filing false claims with

the department may not file a certificate in support of a claim for disability benefits for a period of five years.

(c) For purposes of this part, the term "physician" has the same meaning as it does in Section 3209.3 of the Labor Code. For purposes of this part, "practitioner" means a person duly licensed or certified in California acting within the scope of his or her license or certification who is a dentist, podiatrist, or as to normal pregnancy or childbirth, a nurse midwife or nurse practitioner.

(d) For a claimant who is hospitalized in or under the authority of a county hospital in this state, a certificate of initial and continuing medical disability, if any, shall satisfy the requirements of this section if the disability is shown by the claimant's hospital chart, and the certificate is signed by the hospital's registrar. For a claimant hospitalized in or under the care of a medical facility of the United States government, a certificate of initial and continuing medical disability, if any, shall satisfy the requirements of this section if the disability is shown by the claimant's hospital chart, and the certificate is signed by a medical officer of the facility duly authorized to do so.

(e) Nothing in this section shall be construed to preclude the department from requesting additional medical evidence to supplement the first or any continued claim if the additional evidence can be procured without additional cost to the claimant. The department may require that the additional evidence include identification of diagnoses, symptoms, or a statement as to the facts of the claimant's disability by the physician or practitioner treating the claimant, by the registrar, authorized medical officer, or other duly authorized official of the hospital or health facility treating the claimant, or by an examining physician or other representative of the department.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to clarify the nonemployment status of temporary elections officials and workers in the upcoming November 8, 1994, general election, and to provide for immediate improvements to the unemployment compensation system, it is necessary that this act take effect immediately.

CHAPTER 968

An act to amend Section 4051.6 of, and to add Section 3502.1 to, the Business and Professions Code, relating to physician assistants.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Section 3502.1 is added to the Business and Professions Code, to read:

3502.1. (a) In addition to the services authorized in the regulations adopted by the board, and except as prohibited by Section 3502, while under the supervision of a licensed physician and surgeon or physicians and surgeons approved by the board, a physician assistant may administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a transmittal order, a prescription from his or her supervising physician and surgeon to a person who may lawfully furnish the medication or medical device pursuant to subdivisions (b) and (c).

(1) A supervising physician and surgeon who delegates prescription transmittal authority to a physician assistant may limit this authority by specifying the manner in which the physician assistant may transmit prescriptions.

(2) Each supervising physician and surgeon who delegates prescription transmittal authority shall first prepare and adopt, or adopt, a written, practice specific, formulary and protocols that specify all criteria for the use of a particular drug or device, and any contraindications for the selection. The drugs listed shall constitute the formulary and shall include only drugs that are appropriate for use in the type of practice engaged in by the supervising physician and surgeon. When transmitting an order, the physician assistant is acting on behalf of and as an agent for a supervising physician and surgeon.

(b) The supervising physician and surgeon's prescription for any patient cared for by the physician assistant that is transmitted by the physician assistant shall be based on either an order given by a supervising physician and surgeon for a particular patient, or on the protocols described in subdivision (a).

(1) A physician assistant shall not administer or provide a drug or transmit a prescription for a drug other than for a drug listed in the formulary without an order from a supervising physician and surgeon for the particular patient. At the direction and under the supervision of a physician and surgeon, a physician assistant may hand to a patient of the supervising physician and surgeon a properly labeled prescription drug prepackaged by a physician and surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

(2) A physician assistant may not administer, provide or transmit

a prescription for Schedule II through Schedule V controlled substances without an order by a supervising physician and surgeon for the particular patient.

(3) Any prescription transmitted by a physician assistant shall be subject to a reasonable quantitative limitation consistent with customary medical practice in the supervising physician and surgeon's practice.

(c) A transmittal order issued pursuant to subdivision (a) shall contain the printed name, address, and phone number of the supervising physician and surgeon, the printed or stamped name and license number of the physician assistant, and the signature of the physician assistant. The requirements of this subdivision may be met through stamping or otherwise imprinting on the supervising physician and surgeon's prescription blank to show the name and license number of the physician assistant, and shall be signed by the physician assistant. When transmitting an order, the physician assistant is acting on behalf of and as an agent for a supervising physician and surgeon.

(d) The medical record of any patient cared for by a physician assistant for whom the supervising physician and surgeon's prescription has been transmitted or carried out shall be reviewed and countersigned and dated by a supervising physician and surgeon within seven days.

SEC. 2. Section 4051.6 of the Business and Professions Code is amended to read:

4051.6. Notwithstanding any other provision of law, a licensed pharmacist may dispense drugs or devices upon the order of a nurse practitioner functioning pursuant to Section 2836.1 or a transmittal order of a physician assistant functioning pursuant to Section 3502.1.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 969

An act to add and repeal Part 1.5 (commencing with Section 1400) to Division 2 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 27, 1994. Filed with Secretary of State September 28, 1994.]

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

SECTION 1. Part 1.5 (commencing with Section 1400) is added to Division 2 of the Welfare and Institutions Code, to read:

PART 1.5. FAMILY ASSESSMENT INTERVENTION AND RESOURCE PROGRAM

CHAPTER 1. GENERAL PROVISIONS

Article 1. Legislative Findings and Intent

1400. This part shall be known and may be cited as the Pilot Family Assessment Intervention and Resource Act.

1401. The Legislature finds and declares that:

(a) There is a continuing need to institute early intervention and prevention programs for children and their families at risk of coming under the jurisdiction of the juvenile court as a consequence of either delinquent conduct of the child or parental abuse and neglect.

(b) Children and their families at risk of coming under the jurisdiction of the juvenile court shall, in conformity with the interests of public safety and protection, receive community-based care, treatment, and guidance which is consistent with their best interests and which holds them accountable for their behavior.

(c) Currently, children come under the jurisdiction of the juvenile court because of one or more of the following:

(1) They have committed a criminal offense and are classified as wards of the court owing to their delinquent conduct.

(2) They are habitually disobedient or truant and are designated wards of the court because they are beyond parental control.

(3) They are in need of protective services and are classified as dependents of the court because they have been abused or neglected by a parent or guardian.

(d) Each juvenile court in California has the responsibility to address every case coming before it on an individual basis, recognizing the special needs of each child, the child's family, and the community in which the conduct has occurred. Severely neglected and abused children, and children whose pattern of

criminal conduct is well established or whose criminal acts are serious, make up the bulk of the cases handled by the juvenile courts. The procedural requirements are strict, the time limits are short, and the cases are usually complex, with substantial impact on the child and family, the probation and social services systems in the county, and the public at large.

(e) Attorneys represent children and family members in juvenile court, and because the stakes are high, many cases are contested. Hearings on these matters are usually emotional, often lengthy, and always expensive. Once the juvenile court assumes jurisdiction of the case, the assistance needed by the children and their families is comprehensive and costly, and resources are often inadequate.

(f) Considerably greater public resources have been spent on treating adverse outcomes than on preventing them.

(g) The current juvenile justice system is not meeting the needs of at-risk children and their families owing to a lack of community-based intervention and prevention programs.

(h) Because of limited resources, only the most serious cases come before the juvenile court, and by the time the court is asked to address the problems, it is often too late. The system of authoritative intervention by the courts and public agencies focuses on and labels children and families who could have remained out of that system if served earlier and more comprehensively.

(i) California juvenile courts are overwhelmed as a result of dramatically increased caseloads and the scarcity or inadequacy of resources to address the problems precipitating court involvement.

(j) Children and families who could benefit from early intervention and prevention programs are frequently overlooked until the conduct or condition becomes so aggravated that court action is required.

1402. It is the intent of the Legislature to:

(a) Establish a model for Family Assessment Intervention and Resource (FAIR) centers for prevention and early intervention, with the juvenile court playing an important role in this judicially supervised, nonadversarial program that will result in a reduction and reallocation of costs to the court system. The purpose of the FAIR center is to do all of the following:

(1) Offer community-based prevention, intervention, and treatment services in a neighborhood setting.

(2) Serve as a resource for children whose conduct or condition comes within statutory descriptions, but whose cases are amenable to resolution short of court intervention or are not yet serious enough to warrant the immediate filing of a juvenile court petition.

(3) Reduce the need for intensive judicial intervention in the future with concomitant savings in appointed attorney fees and court support costs.

(4) Shift the focus of intervention toward individual and family responsibility and accountability while eliminating the practice of labeling children according only to statutory definitions.

(5) Enhance the effectiveness of the judicial system and the role of the juvenile court.

(b) Establish pilot and demonstration projects in up to three counties to fulfill the FAIR center model goal and to evaluate whether the FAIR center model better meets the needs of at-risk children and their families in a cost-effective manner by providing a community-based intervention and prevention program. The pilot and demonstration projects shall include all of the following:

(1) A process by which, in lieu of filing a petition to declare a child a ward or a dependent, at-risk children and their families are referred to a FAIR center. The process shall include the filing of a petition under Section 1420, as provided in Section 1410.

(2) A community-based FAIR center that will provide referrals or services adapted to the individual families and the communities or neighborhoods to be served.

(3) A contractual agreement between families referred to FAIR centers and FAIR center representatives encouraging compliance with a case plan for recommended services. The contractual agreement shall be filed with the local juvenile court.

(4) Establish procedures to ensure individual accountability on the part of each family member to fulfill contractual agreements made with the FAIR center.

Article 2. Commencement of Proceedings

1410. In any case in which a probation officer or social worker, after investigation of an application for a petition or any other investigation the officer or social worker is authorized to make, determines that a child is within the jurisdiction of the juvenile court or will probably soon be within that jurisdiction, the probation officer or social worker, in lieu of filing a petition to declare a child a dependent child of the court under Section 300 or a ward of the court under Section 601, or in lieu of requesting that a petition be filed by the prosecuting attorney to declare a child a ward of the court under Section 602, may with the consent of the child and the child's parent or guardian refer the case to a FAIR center under Section 1420 instead. Nothing in this section shall be construed to prevent the probation officer or social worker from filing a petition under Section 300 or 601, or requesting the prosecuting attorney to file a petition under Section 602, at any time within a six-month period from the date of the filing of the petition, or an extension of the petition, under Section 1420 if the probation officer or social worker determines that the child or the family of the child has violated any of the terms of the agreement entered into at the FAIR center. A family whose child meets the description under subdivision (c) of Section 653.5, subdivision (e) of Section 300, or subdivision (f) of Section 300 shall be excluded from referral to or participation in the FAIR center assessment and program.

Article 3. FAIR Center Pilot and Demonstration Projects

1420. The Judicial Council shall establish, in cooperation with the board of supervisors of the county and other local entities, up to three judicial demonstration projects for a three-year period in order to implement and evaluate the FAIR center proposal. Projects shall be funded to the extent federal and private funding sources can be developed. Existing discretionary state funds available for use by the participating county may be used by the county for the project to the extent this use is not in conflict with the purposes for which the funds are appropriated. No new state funds shall be expended for this purpose. Each county FAIR pilot and demonstration project designated by the Judicial Council shall do all of the following:

(a) Create a FAIR center that provides an extensive array of services adapted to the needs of individual children and their families in the neighborhoods in which they reside. In order to establish and operate a FAIR center, the presiding judge of the juvenile court in which the center is created shall establish a local planning council. A council established pursuant to this subdivision shall plan, implement, monitor, and evaluate the pilot program. The presiding judge may designate an existing interagency coordination council to perform the functions of the local planning council if the existing interagency coordination council meets the representation requirements of subdivision (b).

(b) The membership of the local planning council established pursuant to subdivision (a) shall include the presiding judge of the juvenile court and at least one representative from each of the following agencies or groups:

(1) One representative of each county agency responsible for the following services: probation, social services, health, mental health, schools, and employment training.

(2) One representative of local education.

(3) One representative of the state Department of Rehabilitation.

(4) One representative of a local law enforcement agency.

(5) One representative of each of the following community-based groups: (A) victims groups; (B) nonprofit agencies serving at-risk youth; and (C) the business community.

(6) Representatives of families and youths who are at risk of coming within the jurisdiction of the juvenile court.

(c) Establish a referral mechanism that includes all of the following elements:

(1) Any interested agency or organization may make direct referrals to FAIR, under protocols developed and drafted by representatives of the county probation department, the county department of social services, and the FAIR center, in consultation with other community sources.

(2) Families shall be eligible to receive an assessment for FAIR center participation and status under this section only if the child whose conduct or condition has precipitated the referral comes

within the description of Section 300, 601, or 602, or pursuant to Section 1410 will probably soon do so. The court may consider referring a child and the child's family to the FAIR center at any time prior to making a jurisdictional determination under Section 300, 601, or 602. Therefore, the protocol for referrals shall be drafted jointly by the probation department, the department of social services, and the FAIR center director to ensure that the statutory criteria are met.

(3) A child and the child's family are eligible for FAIR center involvement if the child is referred at any time prior to the child's 18th birthday.

(d) Establish staffing, administration, and program guidelines, including the following:

(1) Each FAIR center shall be staffed by an administrator, one or more family advisors, and paid staff as needed. Each family advisor shall, at the time of appointment, have extensive experience with the agencies in the jurisdiction that serve children and families, and shall have served at least three years as a teacher, patrol officer, probation officer, social worker, mediator, counselor, or in a position offering equivalent experience with youth and families. Bidding agencies shall be required to use the services of volunteers, including, but not limited to, student interns.

(2) Each family advisor shall be required to do all of the following:

(A) Meet with the involved family members and other involved persons, including school representatives, community resource representatives, and counselors, assess the family for participation in the FAIR center under this section, and assume responsibility for the decision to do any of the following:

(i) Find the family unsuitable for inclusion in the FAIR program, and report back to the probation or social services department.

(ii) Accept the family and proceed under the requirements of this section.

(iii) Provide referrals to the family for services, without recommending formal participation in FAIR.

(B) For families accepted for participation:

(i) Make recommendations for services to be included in the contractual agreement, explain each service to the family, and ensure that the recommended services are available and accessible to the family.

(ii) Draft the contractual agreement for the signatures of the parties and representatives of the relevant agency. The contractual agreement shall include a specification of services to be provided to, and actions to be taken by, the family.

(iii) Explain the nature and terms of the contractual agreement and the consequences of failure to comply, including contempt, as well as the role of the court and the duties of the center.

(iv) Submit the contractual agreement to the court and the relevant agency.

(3) Services at the FAIR center site itself shall include, but not be

limited to, crisis intervention, family assessment, drafting of the contractual agreement, referrals for services available elsewhere, case management, and followup. Mediation and dispute resolution services shall be provided at the FAIR center, or through a referral, but shall be available to participants.

(4) Jurisdiction of the juvenile court under this section shall commence at the time the contractual agreement is approved and filed. No case may be extended beyond 12 months after the filing of the contractual agreement.

(A) Within three months after the contractual agreement is filed, the family advisor shall prepare a report to be submitted to the FAIR center administrator for in-house review.

(B) Six months after the contractual agreement is filed, the family advisor shall prepare and submit a report to the court. At that time, the term of the contractual agreement shall expire, and jurisdiction of the court under this section shall terminate, unless a new contractual agreement extending the original service plan for an additional six months or modifying the original service plan is prepared, signed by the parties, approved by the court, and filed.

(C) Six months after the extension or modified contractual agreement is filed, the family advisor shall prepare and submit a final report to the court and the relevant agency, and jurisdiction under this section shall terminate.

(5) Failure to perform the obligations of the FAIR contractual agreement may result in the filing of a petition in juvenile court under Section 300, 601, or 602, in the sanction of contempt for adult parties, or both. Notice to the participants of the potential consequences of contempt and incarceration is paramount. The Judicial Council shall adopt forms for mandatory use which clearly set forth these consequences, and the family advisor shall thoroughly discuss and explain them.

(e) Establish case management guidelines.

Article 4. Research and Evaluation

1430. (a) Every pilot and demonstration project under this part shall include a research component requiring a longitudinal study of a percentage of the families served at each FAIR center, the establishment of a suitable control group of families that are not served, and an evaluation of program components and their effectiveness in addressing and meeting FAIR center goals.

(b) Each FAIR center shall maintain case records containing information relating to each family served, and shall adhere to standards of confidentiality and preservation of records as specified in the request for proposals. However, five years after the termination of a family's case, the records shall be destroyed.

(c) Each FAIR center shall adhere to standards of confidentiality set forth in Section 18986.45 for multidisciplinary services teams.

(d) Continuous and longitudinal evaluation of the benefits and

costs of the pilot projects shall be made by a research and evaluation advisory panel appointed by the Judicial Council.

(e) Not later than July 1, 1997, the Judicial Council shall report to the Legislature on the result of each of the pilot and demonstration projects. The report shall include the evaluations of the research and evaluation advisory panel, recommendations as to whether the techniques utilized in the pilot and demonstration projects should be required or encouraged on a statewide basis, and how any expenses related to the changes should be financed. Recommended changes in the law should be included in the report.

Article 5. Duration

1440. This part shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

SEC. 1.5. Section 1430 is added to the Welfare and Institutions Code, to read:

1430. (a) Every pilot and demonstration project under this part shall include a research component requiring a longitudinal study of a percentage of the families served at each FAIR center, and an evaluation of program components and their effectiveness in addressing and meeting FAIR center goals.

(b) Each FAIR center shall maintain case records containing information relating to each family served, and shall adhere to standards of confidentiality and preservation of records as specified in the request for proposals. However, five years after the termination of a family's case, the records shall be destroyed.

(c) Each FAIR center shall adhere to standards of confidentiality set forth in Section 18986.46 for multidisciplinary services teams.

(d) Continuous and longitudinal evaluation of the benefits and costs of the pilot projects shall be made by a research and evaluation advisory panel appointed by the Judicial Council.

(e) Not later than July 1, 1997, the Judicial Council shall report to the Legislature on the result of each of the pilot and demonstration projects. The report shall include the evaluations of the research and evaluation advisory panel, recommendations as to whether the techniques utilized in the pilot and demonstration projects should be required or encouraged on a statewide basis, and how any expenses related to the changes should be financed. Recommended changes in the law should be included in the report.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 3. Section 1.5 of this bill shall become operative, only if AB 2488 is chaptered and becomes effective, at which time the Section 1430 that would be added to the Welfare and Institutions Code by Section 1 of this bill shall not become operative.

CHAPTER 970

An act to amend Section 6872.5 of, to repeal Sections 6871.1, 6871.2, and 6872 of, to repeal Chapter 3.5 (commencing with Section 6250) of, and to repeal and add Chapter 3.4 (commencing with Section 6240) of, Part 1 of Division 6 of, the Public Resources Code, relating to coastal resources.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Chapter 3.4 (commencing with Section 6240) of Part 1 of Division 6 of the Public Resources Code is repealed.

SEC. 2. Chapter 3.4 (commencing with Section 6240) is added to Part 1 of Division 6 of the Public Resources Code, to read:

CHAPTER 3.4. CALIFORNIA COASTAL SANCTUARY

6240. This chapter shall be known, and may be cited, as the California Coastal Sanctuary Act of 1994.

6241. The Legislature hereby finds and declares that offshore oil and gas production in certain areas of state waters poses an unacceptably high risk of damage and disruption to the marine environment of the state.

6242. (a) A California Coastal Sanctuary is hereby created which includes all state waters subject to tidal influence, except as provided in subdivisions (b) and (c).

(b) The California Coastal Sanctuary shall not include any state waters subject to a lease for the extraction of oil or gas in effect on January 1, 1995, unless the lease is deeded or otherwise reverts to the state after that date.

(c) The California Coastal Sanctuary shall not include any state waters situated east of the Carquinez Bridges on Interstate 80.

6243. Notwithstanding any provision of Article 4 (commencing with Section 6870) of Chapter 3 of Part 2 or any other provision of law, no state agency or state officer shall enter into any new lease for the extraction of oil or gas from the California Coastal Sanctuary,

unless the President of the United States has found a severe energy supply interruption and has ordered distribution of the Strategic Petroleum Reserve pursuant to Section 6241(d) of Title 42 of the United States Code, the Governor finds that the energy resources of the sanctuary will contribute significantly to the alleviation of that interruption, and the Legislature subsequently acts to amend this chapter to allow that extraction.

6244. The commission may enter into any lease for the extraction of oil or gas from state-owned tide and submerged lands in the California Coastal Sanctuary if the commission determines that those oil or gas deposits are being drained by means of producing wells upon adjacent federal lands and the lease is in the best interests of the state.

SEC. 3. Chapter 3.5 (commencing with Section 6250) of Part 1 of Division 6 of the Public Resources Code is repealed.

SEC. 4. Section 6871.1 of the Public Resources Code is repealed.

SEC. 5. Section 6871.2 of the Public Resources Code, as added by Chapter 835 of the Statutes of 1991, is repealed.

SEC. 6. Section 6872 of the Public Resources Code is repealed.

SEC. 7. Section 6872.5 of the Public Resources Code is amended to read:

6872.5. The commission may adjust the boundaries of existing leases to encompass all of a field partially contained within the existing lease subject to both of the following conditions:

(a) The commission makes all of the following findings:

(1) The adjustment will permit more efficient utilization of state resources.

(2) The number and size of existing offshore platforms will not be increased, except that modifications to a platform within the existing boundaries of a lease shall be permitted where the modifications are reasonably necessary for development of all of the resources within the reconfigured lease.

(3) The boundary adjustment will not require the construction or major modification of a refinery in this state to permit development of any increased production resulting from the boundary adjustment, unless that construction or major modification is to a field production facility servicing the lease.

(4) The boundary adjustment represents the environmentally least damaging feasible alternative for the extraction and production of affected resources.

(b) Those parts of the field within areas added to the existing lease may not be developed except from upland sites or from existing offshore facilities within the original lease boundaries.

SEC. 8. It is the intent of the Legislature that nothing in this act shall affect the authority of the State Lands Commission to provide necessary ingress, egress, or access to pipeline facilities and other utilities by the lease of rights-of-way or by other appropriate means.

CHAPTER 971

An act to amend Section 116.231 of the Code of Civil Procedure, relating to small claims courts.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 116.231 of the Code of Civil Procedure is amended to read:

116.231. (a) Except as provided in subdivision (d), no person may file more than two small claims actions in which the amount demanded exceeds two thousand five hundred dollars ($2,500), anywhere in the state in any calendar year.

(b) Except as provided in subdivision (d), if the amount demanded in any small claims action exceeds two thousand five hundred dollars ($2,500), the party making the demand shall file a declaration under penalty of perjury attesting to the fact that not more than two small claims actions in which the amount of the demand exceeded two thousand five hundred dollars ($2,500) have been filed by that party in this state within the calendar year.

(c) The Legislature finds and declares that the pilot project conducted under the authority of Chapter 1196 of the Statutes of 1991 demonstrated the efficacy of the removal of the limitation on the number of actions public entities may file in the small claims courts on claims exceeding two thousand five hundred dollars ($2,500).

(d) The limitation on the number of filings exceeding two thousand five hundred dollars ($2,500) does not apply to filings where the claim does not exceed five thousand dollars ($5,000) which are filed by a city, county, city and county, school district, county office of education, community college district, local district, or any other local public entity. If any small claims action is filed by a city, county, city and county, school district, county office of education, community college district, local district, or any other local public entity pursuant to this section, and the defendant informs the court either in advance of the hearing by written notice or at the time of the hearing, that he or she is represented in the action by legal counsel, the action shall be transferred to the municipal court. A city, county, city and county, school district, county office of education, community college district, local district, or any other local public entity may not file a claim within the small claims division if the amount of the demand exceeds five thousand dollars ($5,000).

CHAPTER 972

An act to amend Section 25540 of, and to repeal Section 25403 of, the Corporations Code, and to add Chapter 13 (commencing with Section 5950) to Division 6 of Title 1 of the Government Code, relating to local agency obligations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 25403 of the Corporations Code is repealed.

SEC. 2. Section 25540 of the Corporations Code is amended to read:

25540. (a) Except as provided for in subdivision (b), any person who willfully violates any provision of this division, or who willfully violates any rule or order under this division, shall upon conviction be fined not more than one million dollars ($1,000,000), or imprisoned in the state prison, or in a county jail for not more than one year, or be punished by both such fine and imprisonment; but no person may be imprisoned for the violation of any rule or order if he or she proves that he or she had no knowledge of the rule or order.

(b) Any person who willfully violates Section 25400, 25401, or 25402, or who willfully violates any rule or order under this division adopted pursuant to those provisions, shall upon conviction be fined not more than ten million dollars ($10,000,000), or imprisoned in the state prison for two, three, or five years, or be punished by both such fine and imprisonment.

SEC. 3. Chapter 13 (commencing with Section 5950) is added to Division 6 of Title 1 of the Government Code, to read:

CHAPTER 13. FRACTIONAL INTEREST IN LOCAL AGENCY OBLIGATIONS

5950. As used in this chapter:

(a) "Accredited investor" has the meaning specified in Rule 501 of the Securities Act of 1933.

(b) "In this state" has the meaning specified in Section 25008 of the Corporations Code.

(c) "Issuer" has the meaning specified in Section 25010 of the Corporations Code.

(d) "Issuer transaction" means any transaction directly or indirectly for the benefit of the issuer. A transaction is indirectly for the benefit of the issuer if any portion of the purchase price of any security constituting a fractional interest in a lease, installment sale, or other obligation of a local agency involved in the transaction will

be received indirectly by the issuer. An offer or sale that involves both an issuer transaction and a transaction that is not an issuer transaction shall be treated as separate transactions.

(e) "Knowingly" means that a person, with respect to an offer or sale of a security constituting a fractional interest in a lease, installment sale, or other obligation of a local agency, does any of the following:

(1) Has actual knowledge that the local agency has not consented to the offer or sale of such security.

(2) Acts in deliberate ignorance of whether or not the local agency has consented to the offer or sale of that security.

(3) Acts in reckless disregard of whether or not the local agency has consented to the offer or sale of that security.

Proof of specific intent to violate Section 5951 is not required.

(f) "Local agency" means a city, county, city and county, school district, special district, public corporation, or other public entity of this state.

(g) "Person" has the meaning specified in Section 25013 of the Corporations Code.

(h) "Qualified institutional buyer" has the meaning specified in Rule 144A of the Securities Act of 1933.

(i) "Sale," "sell," "offer," and "offer to sell" have the respective meanings specified in Section 25017 of the Corporations Code.

(j) "Security" has the meaning specified in Section 25019 of the Corporations Code.

(k) "Securities Act of 1933" and "Investment Company Act of 1940" means the federal statutes of those names as amended before or after the effective date of this chapter.

5951. It is unlawful for any person to offer or sell in an issuer transaction in this state, or otherwise knowingly to offer or sell in this state, any security constituting a fractional interest in a lease, installment sale, or other obligation of a local agency without obtaining the prior written consent of that local agency to that offer or sale. However, this section shall not apply to any of the following:

(a) Any security that constitutes a fractional interest in a lease, installment sale, or other obligation of a local agency and that was first issued and sold prior to October 2, 1993.

(b) Offers or sales of shares or interests in any registered unit investment trust or management company, each as defined in the Investment Company Act of 1940.

(c) Any security that constitutes a fractional interest in a lease, installment sale, or other obligation of a local agency and that is registered under the Securities Act of 1933.

(d) Offers or sales of any security described in this section subsequent to an offer or sale of that security in compliance with this section.

(e) Offers or sales of participation interests between financial institutions.

(f) Any security that constitutes a fractional interest in a lease,

installment sale, or other obligation of a local agency and that is created concurrently with, and as an integral part of, a financing to which the local agency is a party.

(g) Offers or sales of any security that constitutes a fractional interest in a lease, installment sale, or other obligation of a local agency made solely to one or more persons who are reasonably believed to be qualified institutional buyers or accredited investors.

(h) Any security that was first issued and sold prior to the effective date of this section if that security is either described in subdivision (b), (c), or (f), or was issued and sold in a transaction described in subdivision (d), (e), or (g).

5952. Any consent granted by a local agency under Section 5951 shall be conclusively evidenced by a resolution of the governing body of the local agency, or by a written instrument executed on behalf of the local agency by its treasurer, chief financial officer, or purchasing agent, or by any other officer of the local agency authorized by resolution of the governing body thereof to grant consents under Section 5951.

5953. No local agency that consents to an offer or sale of a security that constitutes a fractional interest in a lease, installment sale, or other obligation of the local agency shall be required to review any proceedings relating to the creation of the security or any of the offering or placement memoranda or any other marketing or descriptive materials relating to the security, and all memoranda or materials shall include a prominent statement on the face thereof substantially to the effect that the consenting local agency (specified by name) has not reviewed any of the proceedings relating to the creation of the security or any of the offering or placement memoranda or other marketing materials relating thereto.

5954. Any person who violates this chapter shall upon conviction be fined not more than ten million dollars ($10,000,000), or imprisoned in the state prison for five years, or be punished by both that fine and imprisonment.

5955. The obtaining of local agency consent to an offer or sale of a security under Section 5951 shall not obviate the necessity of qualification of the offer or sale of such security under Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code, unless the security or transaction is exempt from qualification under such law.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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

In order to prevent disruption of the market in securities of local agencies of this state, and in order to promote the liquidity of those securities, it is necessary that this act take effect immediately.

CHAPTER 973

An act to amend Section 8276 of, to add Sections 8280, 8280.7, and 9012 to, to add and repeal Sections 8276.1, 8276.2, 8276.3, 8280.1, 8280.2, 8280.3, 8280.4, and 8280.6 of, and to repeal, add, and repeal Section 8280.5 of, the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 8276 of the Fish and Game Code is amended to read:

8276. Except as provided in Section 8276.2:

(a) Dungeness crab may be taken for commercial purposes in Districts 6, 7, 8, and 9 only between December 1 and July 15.

(b) Dungeness crab may be taken for commercial purposes in all other districts only between November 15 and June 30.

(c) Dungeness crab may not be taken for commercial purposes in any district, or part of a district, lying within the portions of Crescent City Harbor between the south sand barrier and the breakwater.

SEC. 2. Section 8276.1 is added to the Fish and Game Code, to read:

8276.1. (a) The Legislature finds and declares that in order to protect against the taking of soft-shelled Dungeness crab, which could damage the Dungeness crab resource and the landing of a resource of low value as compared to the landing of hard-shelled, fully developed Dungeness crab, it is necessary in Districts 6, 7, 8, and 9 to grant the director authority, in consultation with the Dungeness crab fishing industry, to delay the opening of the Dungeness crab fishery after December 1 in any year when, following a specified testing procedure, Dungeness crab are found to be predominately soft-shelled or of such low quality as to make them of less value to the commercial fishing industry and less desirable to consumers, than they would otherwise be if the crab were hard shelled or fully developed as a result of a delay in their taking and landing.

(b) This section shall become inoperative on April 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which

becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 8276.2 is added to the Fish and Game Code, to read:

8276.2. (a) The director may order a delay in the opening of the Dungeness crab fishery after December 1 in Districts 6, 7, 8, and 9 in any year if recommended by the California Seafood Council established pursuant to Section 78475 of the Food and Agricultural Code. The delay in the opening shall not be later than January 15 of any year.

(b) On or about November 1 of each year, the director shall authorize one or more operators of commercial fishing vessels to take and land a limited number of Dungeness crab for the purpose of quality testing according to a testing program developed by the California Seafood Council and approved by the department. Crab taken pursuant to this section shall not be sold; however, any edible crabmeat recovered from the crabs tested shall not be wasted and may be used for charitable purposes.

(c) The director shall order the opening of the Dungeness crab season in Districts 6, 7, 8, and 9 on December 1 if the California Seafood Council recommends that, based on tests of crabs taken, Dungeness crabs are of sufficient quality to begin harvesting. If the tests conducted on or about November 1 result in a finding that Dungeness crabs are soft-shelled or low quality and, if so recommended by the California Seafood Council, the director shall authorize a second test to be conducted on or about November 15. If the second test results in a finding that Dungeness crabs are soft-shelled or low quality and, if so recommended by the California Seafood Council, the director may order the season opening delayed for a period of 15 days and may authorize a third test to be conducted on or about December 1. If the third test results in a finding that Dungeness crabs remain soft-shelled or of low quality and, if so recommended by the California Seafood Council, the director may order the season opening delayed for a period of an additional 15 days and authorize a fourth test to be conducted. This procedure shall continue to be followed, except that no tests shall be conducted after January 1 for that season, and the season opening shall not be delayed by the director later than January 15.

(d) The Director of Food and Agriculture shall conduct a referendum among Dungeness crab fishermen as if Chapter 23 (commencing with Section 78401) of the Food and Agricultural Code applied to those fishermen to determine (1) if those fishermen vote, in accordance with the provisions of that chapter, in favor of making that chapter applicable to the Dungeness crab fishery, or (2) if those fishermen, by majority vote, determine to reimburse the California Seafood Council for all costs incurred by the council in carrying out this section. This section, except as necessary to conduct an implementation referendum vote, shall become operative only if Dungeness crab fishermen vote by referendum to join the California

Seafood Council or otherwise reimburse the council for all costs incurred in carrying out this section. If Dungeness crab fishermen vote to make that chapter applicable to the Dungeness crab fishery, notwithstanding Section 78407 of the Food and Agricultural Code, Dungeness crab shall be included within the meaning of "fisheries," as defined by that section, and, notwithstanding any contrary provision of Chapter 23 (commencing with Section 78401) of Division 22 of the Food and Agricultural Code, that chapter shall apply to the Dungeness crab fishery.

(e) This section shall become inoperative on April 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 8276.3 is added to the Fish and Game Code, to read:

8276.3. (a) No vessel shall, in the event of any delay pursuant to Section 8276.2 in the opening of the Dungeness crab fishery in Districts 6, 7, 8, and 9, take or land crab within Districts 6, 7, 8, and 9 during any closure, and all vessels to be used to take and land Dungeness crab in Districts 6, 7, 8, and 9 shall have their holds inspected by an entity authorized by the department to determine that no Dungeness crab are aboard the vessel within 24 hours prior to the date set by the director for opening the season after December 1. The director shall delegate the inspection of vessels under this section to the California Seafood Council. If the California Seafood Council is unable or decides not to undertake hold inspections, then no hold inspections shall be required by this code.

(b) Each vessel inspected and certified to be free of Dungeness crab shall be issued a certificate to that effect by the California Seafood Council, and no vessel shall take or land crab in Districts 6, 7, 8, or 9 within 30 days of any delayed opening without having aboard a copy of such certificate. No vessel inspections and certificates shall be required for vessels taking and landing Dungeness crab in Districts 6, 7, 8, and 9 when there has been no delay in the opening ordered by the director.

(c) In the event of any delay in the opening of the Dungeness crab season pursuant to this section, the opening date in Districts 6, 7, 8, and 9 shall be preceded by a 36-hour gear setting period, as ordered by the director.

(d) The Director of Food and Agriculture shall conduct a referendum among Dungeness crab fishermen as if Chapter 23 (commencing with Section 78401) of the Food and Agricultural Code applied to those fishermen to determine (1) if those fishermen vote, in accordance with the provisions of that chapter, in favor of making that chapter applicable to the Dungeness crab fishery, or (2) if those fishermen, by majority vote, determine to reimburse the California Seafood Council for all costs incurred by the council in carrying out this section. This section, except as necessary to conduct an implementation referendum vote, shall become operative only if

Dungeness crab fishermen vote by referendum to join the California Seafood Council or otherwise reimburse the council for all costs incurred in carrying out this section. If Dungeness crab fishermen vote to make that chapter applicable to the Dungeness crab fishery, notwithstanding Section 78407 of the Food and Agricultural Code, Dungeness crab shall be included within the meaning of "fisheries," as defined by that section, and, notwithstanding any contrary provision of Chapter 23 (commencing with Section 78401) of Division 22 of the Food and Agricultural Code, that chapter shall apply to the Dungeness crab fishery.

(e) This section shall become inoperative on April 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 8280 is added to the Fish and Game Code, to read:

8280. (a) The Legislature finds and declares that the Dungeness crab fishery is important to the state because it provides a valuable food product, employment for those persons engaged in the fishery, and economic benefits to the coastal communities of the state.

(b) The Legislature further finds that, in order to protect the Dungeness crab fishery, it is necessary to limit the number of vessels participating in that fishery to take Dungeness crab and it may be necessary to limit the quantity and capacity of the fishing gear used on each vessel to take Dungeness crab.

(c) The Legislature further finds and declares that to limit the number of vessels in the Dungeness crab fishery, it is necessary to require that the owner of each vessel participating in the fishery obtain and possess a permit for that vessel and that the initial issuance of permits shall be limited to those persons owning vessels qualifying under Section 8280.1.

SEC. 6. Section 8280.1 is added to the Fish and Game Code, to read:

8280.1. (a) On or after April 1, 1995, no person shall use a vessel to take or land Dungeness crab using Dungeness crab traps authorized pursuant to Section 9011, unless the owner of that vessel has been issued a revocable Dungeness crab vessel permit for that vessel. A Dungeness crab vessel permit is valid, unless revoked, from April 1 to March 31 of the year following, or, if issued after April 1, for the remainder thereof.

(b) A Dungeness crab vessel permit may be issued only to the following persons:

(1) A person licensed pursuant to Section 7850 or Article 7 (commencing with Section 8030) who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and a minimum of four landings in each of three Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, have been made from that vessel in this state as documented by landing receipts delivered to the department pursuant to Section

8046. This paragraph includes any person purchasing a vessel qualifying pursuant to this paragraph.

(2) A person licensed pursuant to Section 7850 or Article 7 (commencing with Section 8030) who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and a minimum of four landings in one of the Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, have been made from that vessel in this state as documented by landing receipts delivered to the department pursuant to Section 8046, and who the department finds to have been unable, due to illness or injury or any other hardship to make a minimum of four landings in each of two of the previous three Dungeness crab seasons.

(3) A person licensed pursuant to Section 7850 who meets the requirements of Section 8101 and who, notwithstanding Section 8101, is the owner of a fishing vessel that has been registered pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years. Not more than one Dungeness crab vessel permit shall be issued to any person qualifying under Section 8101 and all permits issued under Section 8101 shall, notwithstanding Section 8280.2, be nontransferable and valid only as long as the person qualifying remains licensed pursuant to Section 7881 and annually renews the Dungeness crab vessel permit.

(4) A person (A) who held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, and who has participated in the Dungeness crab fishery between November 1, 1984, and April 1, 1994, and is the owner of a vessel that has been registered with the department in each of the 1991–92, 1992–93, and 1993–94 permit years but did not make landings or the department records do not indicate a minimum of four landings per season for three permit years from that vessel or in that person's name because of a partnership or other working arrangement where the person was working aboard another vessel engaged in the Dungeness crab fishery in California, (B) who held a Dungeness crab vessel permit issued under Section 8280 as it read on April 1, 1994, and who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and a minimum of four landings in one of the Dungeness crab seasons in the period from November 1, 1984 to April 1, 1994, have been made from that vessel or a minimum of 10,000 pounds of Dungeness crab were landed in this state from that vessel in each of the Dungeness crab seasons when fewer than four landings were made during that period, as documented by landing receipts delivered to the department pursuant to Section 8046, or (C) who held a Dungeness crab vessel permit issued under Section 8280 as it read on April 1, 1994, or was an officer in a California corporation that was licensed pursuant to Article 7 (commencing with section 8030) as of April 1, 1994, and began construction or reconstruction of a vessel on or before January 1, 1992, for the purpose of engaging in the

Dungeness crab fishery, including the purchase of equipment and gear to engage in that fishery in California. A person may be issued a permit under this paragraph only if the applicant cannot participate with his or her vessel in the Dungeness crab fishery of another state because of that state's limited entry or moratorium on the issuance of permits for the taking of Dungeness crab, the person intended in good faith to participate in the California Dungeness crab fishery, and a denial of a permit would create a financial hardship on that person. The department may require affidavits offered under penalty of perjury from persons applying for permits under this paragraph or witnesses corroborating the statements of a person applying for a permit.

(c) This section shall become inoperative on April 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 8280.2 is added to the Fish and Game Code, to read:

8280.2. (a) The owner of a Dungeness crab vessel, for purposes of this section, may include a person with a bona fide contract for the purchase of a vessel who otherwise meets all other qualifications for a Dungeness crab vessel permit. If a contract is found to be fraudulent or written or entered into for the purposes of circumventing qualification criteria for the issuance of a permit, the applicant shall be permanently ineligible for a Dungeness crab vessel permit.

(b) A Dungeness crab vessel permit shall be issued only to the person owning the vessel at the time of application for that permit. No person shall be issued more than one permit for each vessel owned by that person and qualifying for a permit pursuant to Section 8280.1.

(c) A Dungeness crab vessel permit shall be issued only to the owner of a vessel taking crab by traps. No permit shall be issued to the owner of a vessel using trawl or other nets unless the owner of that vessel qualifies for a permit pursuant to paragraph (1) of subdivision (b) of Section 8280.1. No trawl or other net vessel authorized under this code to take Dungeness crab incidental to the taking of fish in trawl or other nets shall be required to possess a Dungeness crab vessel permit.

(d) Dungeness crab vessel permits shall not be combined or otherwise aggregated for the purpose of replacing smaller vessels in the fishery with a larger vessel, and a permit shall not be divided or otherwise separated for the purpose of replacing a vessel in the fishery with two or more smaller vessels.

(e) All applications for Dungeness crab vessel permits shall be received by the department or, if mailed, postmarked by April 30, 1995, and renewals of all permits shall be received by the department, or, if mailed, postmarked by April 30 of each year. In order for a vessel to retain eligibility, a permit shall be obtained each

year subsequent to the initial permit year and the vessel shall be registered pursuant to Section 7881. No minimum landings of Dungeness crab shall be required annually to be eligible for a Dungeness crab vessel permit.

(f) This section shall become inoperative on April 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 8280.3 is added to the Fish and Game Code, to read:

8280.3. (a) Notwithstanding Article 9 (commencing with Section 8100) of Chapter 1 and except as provided in this section, a Dungeness crab vessel permit shall not be transferred.

(1) The owner of a vessel to whom a Dungeness crab vessel permit has been issued shall transfer the permit for the use of that vessel upon the sale of the vessel by the permitholder to the person purchasing the vessel. Thereafter, upon notice to the department, the person purchasing the vessel may use the vessel for the taking and landing of Dungeness crab for any and all of the unexpired portion of the permit year, and that person is eligible for a permit pursuant to Section 8280.1 for the use of that vessel in subsequent years. The person purchasing the vessel may not transfer the permit for use of that vessel in the Dungeness crab fishery to another replacement vessel during the same permit year.

(2) The owner of a vessel to whom the Dungeness crab vessel permit has been issued may transfer the permit to a replacement vessel of equivalent capacity, except as specified in this section. Thereafter, upon notice to the department and payment of the transfer fee specified in Section 8280.6, the replacement vessel may be used for the taking and landing of Dungeness crab for any and all of the unexpired portion of the permit year and that person is eligible for a permit pursuant to Section 8280.1 for the use of that replacement vessel in subsequent years. The owner of a permitted vessel may transfer the permit to a vessel of greater capacity, not to exceed 10 feet longer in length overall, from the vessel the permit is transferred from.

No transfer of a permit to a larger vessel shall be allowed more than one time. If a permit is transferred to a larger vessel, any Dungeness crab vessel permit for that permit year or any subsequent permit years for that larger vessel may not be transferred to another larger vessel. The department shall not thereafter issue a Dungeness crab vessel permit for the use of the original vessel from which the permit was transferred, except that the original vessel may be used to take or land Dungeness crab after that transfer if its use is authorized pursuant to another Dungeness crab vessel permit subsequently transferred to that vessel pursuant to this paragraph.

(3) Upon the written approval of the department, the owner of a vessel to whom the Dungeness crab vessel permit has been issued may temporarily transfer the permit to another replacement vessel,

for which use in the Dungeness crab fishery is not permitted pursuant to this section or Section 8280.1, for a period of not more than six months during the current permit year if the vessel for which the permit was issued is seriously damaged, suffers major mechanical breakdown, or is lost or destroyed, as determined by the department, upon approval of the director. The owner of the vessel shall submit proof that the department may reasonably require to establish the existence of the conditions of this paragraph. Upon approval by the director, the owner of a lost or destroyed vessel granted a six month temporary transfer under this section may be granted an additional six month extension of the temporary transfer.

(b) This section shall become inoperative on April 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 8280.4 is added to the Fish and Game Code, to read:

8280.4. (a) The commission may revoke any Dungeness crab vessel permit issued through the submittal of false documents or statements. The commission may revoke the commercial fishing license issued pursuant to Section 7852 of any person owning a fishing vessel engaging in the taking or landing of Dungeness crab by traps for which that person has not obtained a Dungeness crab vessel permit, and the commission may revoke the registration, issued pursuant to Section 7881, for that vessel.

(b) This section shall become inoperative on April 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. Section 8280.5 of the Fish and Game Code is repealed.

SEC. 11. Section 8280.5 is added to the Fish and Game Code, to read:

8280.5. (a) The director shall convene a Dungeness crab review panel for the purpose of reviewing applications for Dungeness crab vessel permits pursuant to paragraphs (2) and (4) of subdivision (b) of Section 8280.1 and applications for permit transfers pursuant to Section 8280.3 if the department determines that the additional review and advice of the panel will be helpful in deciding whether to issue a permit or approve a transfer.

(b) The panel shall consist of one nonvoting representative of the department and three public voting members selected by the director to represent the Dungeness crab fishing industry. One public member shall be licensed pursuant to Article 7 (commencing with Section 8030) and active in Dungeness crab processing in this state. Two public members shall be licensed pursuant to Section 7852, one from Sonoma County or a county south of Sonoma County, and one from Mendocino County or a county north of Mendocino County, and active in the take and landing of Dungeness crab in this state. The public members shall be reimbursed for their necessary

and proper expenses to participate on the panel. A public member shall serve on the panel for not more than four consecutive years.

(c) The panel may conduct its review of applications referred to it by mail or teleconference.

(d) The panel shall review each application for a permit or permit transfer referred to it by the department and shall consider all oral and written evidence presented by the applicant that is pertinent to the application under review. If the panel recommends issuance of a permit or approval of the transfer, the department may issue a Dungeness crab vessel permit pursuant to Section 8280.1 or approve a permit transfer pursuant to Section 8280.3.

(e) This section shall become inoperative on April 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12. Section 8280.6 is added to the Fish and Game Code, to read:

8280.6. (a) The department shall charge a fee for each Dungeness crab vessel permit of two hundred dollars ($200) for a resident of California and four hundred dollars ($400) for a nonresident of California.

(b) The department shall charge a nonrefundable fee of two hundred dollars ($200) for each transfer of a permit authorized pursuant to paragraphs (1) and (2) of subdivision (a) of Section 8280.3.

(c) This section shall become inoperative on April 1, 1998, and, as of January 1, 1999, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1999, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 13. Section 8280.7 is added to the Fish and Game Code, to read:

8280.7. The department shall provide each person, who holds a Dungeness crab vessel permit issued pursuant to Section 8280.1, an annual notice prior to April 1, of statutory or regulatory changes, if any have been enacted or adopted, that affect the commercial Dungeness crab fishery.

SEC. 14. Section 9012 is added to the Fish and Game Code, to read:

9012. (a) No vessel may be used to take and land crab for both commercial and sport purposes in the same day.

(b) In Districts 6, 7, 8, and 9, no trap shall be used to take Dungeness crab if that trap is attached to another trap or other traps by a common line.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 974

An act to amend Sections 3096, 3097, 3098, 3241, and 3252 of, to add Sections 3242 and 3253 to, and to repeal Sections 3091 and 3240 of, the Civil Code, relating to works of improvement.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 3091 of the Civil Code is repealed.

SEC. 2. Section 3096 of the Civil Code is amended to read:

3096. "Payment bond" means a bond with good and sufficient sureties that is conditioned for the payment in full of the claims of all claimants and that also by its terms is made to inure to the benefit of all claimants so as to give these persons a right of action to recover upon this bond in any suit brought to foreclose the liens provided for in this title or in a separate suit brought on the bond. An owner, original contractor, or a subcontractor may be the principal upon any payment bond.

SEC. 3. Section 3097 of the Civil Code is amended to read:

3097. "Preliminary 20-day notice (private work)" means a written notice from a claimant that is given prior to the recording of a mechanic's lien, prior to the filing of a stop notice, and prior to asserting a claim against a payment bond, and is required to be given under the following circumstances:

(a) Except one under direct contract with the owner or one performing actual labor for wages, or an express trust fund described in Section 3111, every person who furnishes labor, service, equipment, or material for which a lien or payment bond otherwise can be claimed under this title, or for which a notice to withhold can otherwise be given under this title, shall, as a necessary prerequisite to the validity of any claim of lien, payment bond, and of a notice to withhold, cause to be given to the owner or reputed owner, to the original contractor, or reputed contractor, to any subcontractors with whom the claimant has contracted, and to the construction lender, if any, or to the reputed construction lender, if any, a written preliminary notice as prescribed by this section.

(b) Except the contractor, or one performing actual labor for wages, or an express trust fund described in Section 3111, all persons who have a direct contract with the owner and who furnish labor, service, equipment, or material for which a lien or payment bond

otherwise can be claimed under this title, or for which a notice to withhold can otherwise be given under this title, shall, as a necessary prerequisite to the validity of any claim of lien, claim on a payment bond, and of a notice to withhold, cause to be given to the construction lender, if any, or to the reputed construction lender, if any, a written preliminary notice as prescribed by this section.

(c) The preliminary notice referred to in subdivisions (a) and (b) shall contain the following information:

(1) A general description of the labor, service, equipment, or materials furnished, or to be furnished, and an estimate of the total price thereof.

(2) The name and address of the person furnishing that labor, service, equipment, or materials.

(3) The name of the person who contracted for purchase of that labor, service, equipment, or materials.

(4) A description of the jobsite sufficient for identification.

(5) The following statement in boldface type:

NOTICE TO PROPERTY OWNER

If bills are not paid in full for the labor, services, equipment, or materials furnished or to be furnished, a mechanic's lien leading to the loss, through court foreclosure proceedings, of all or part of your property being so improved may be placed against the property even though you have paid your contractor in full. You may wish to protect yourself against this consequence by (1) requiring your contractor to furnish a signed release by the person or firm giving you this notice before making payment to your contractor or (2) any other method or device that is appropriate under the circumstances.

(6) If the notice is given by a subcontractor who is required pursuant to a collective bargaining agreement to pay supplemental fringe benefits into an express trust fund described in Section 3111, the notice shall also contain the identity and address of the trust fund or funds.

If an invoice for materials contains the information required by this section, a copy of the invoice, transmitted in the manner prescribed by this section shall be sufficient notice.

A certificated architect, registered engineer, or licensed land surveyor who has furnished services for the design of the work of improvement and who gives a preliminary notice as provided in this section not later than 20 days after the work of improvement has commenced shall be deemed to have complied with subdivisions (a) and (b) with respect to architectural, engineering, or surveying services furnished, or to be furnished.

(d) The preliminary notice referred to in subdivisions (a) and (b) shall be given not later than 20 days after the claimant has first furnished labor, service, equipment, or materials to the jobsite. If labor, service, equipment, or materials have been furnished to a

jobsite by a claimant who did not give a preliminary notice, that claimant shall not be precluded from giving a preliminary notice at any time thereafter. The claimant shall, however, be entitled to record a lien, file a stop notice, and assert a claim against a payment bond only for labor, service, equipment, or material furnished within 20 days prior to the service of the preliminary notice, and at any time thereafter.

(e) Any agreement made or entered into by an owner, whereby the owner agrees to waive the rights or privileges conferred upon the owner by this section shall be void and of no effect.

(f) The notice required under this section may be served as follows:

(1) If the person to be notified resides in this state, by delivering the notice personally, or by leaving it at his or her address of residence or place of business with some person in charge, or by first-class registered or certified mail, postage prepaid, addressed to the person to whom notice is to be given at his or her residence or place of business address or at the address shown by the building permit on file with the authority issuing a building permit for the work, or at an address recorded pursuant to subdivision (j).

(2) If the person to be notified does not reside in this state, by any method enumerated in paragraph (1) of this subdivision. If the person cannot be served by any of these methods, then notice may be given by first-class certified or registered mail, addressed to the construction lender or to the original contractor.

(3) When service is made by first-class certified or registered mail, service is complete at the time of the deposit of that registered or certified mail.

(g) A person required by this section to give notice to the owner, to an original contractor, to any subcontractor, and to a person to whom a notice to withhold may be given, need give only one notice to the owner, to the original contractor, and to any subcontractor, and to the person to whom a notice to withhold may be given with respect to all materials, service, labor, or equipment he or she furnishes for a work of improvement, that means the entire structure or scheme of improvements as a whole, unless the same is furnished under contracts with more than one subcontractor, in which event, the notice requirements shall be met with respect to materials, services, labor, or equipment furnished to each contractor.

If a notice contains a general description required by subdivision (a) or (b) of the materials, services, labor, or equipment furnished to the date of notice, it is not defective because, after that date, the person giving notice furnishes materials, services, labor, or equipment not within the scope of this general description.

(h) Where the contract price to be paid to any subcontractor on a particular work of improvement exceeds four hundred dollars ($400), the failure of that contractor, licensed under Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, to give the notice provided for in this section,

constitutes grounds for disciplinary action by the Registrar of Contractors.

Where the notice is required to contain the information set forth in paragraph (6) of subdivision (c), a failure to give the notice, including that information, that results in the filing of a lien, claim on a payment bond, or the delivery of a stop notice by the express trust fund to which the obligation is owing constitutes grounds for disciplinary action by the Registrar of Contractors against the subcontractor if the amount due the trust fund is not paid.

(i) Every city, county, city and county, or other governmental authority issuing building permits shall, in its application form for a building permit, provide space and a designation for the applicant to enter the name, branch, designation, if any, and address of the construction lender and shall keep the information on file open for public inspection during the regular business hours of the authority.

If there is no known construction lender, that fact shall be noted in the designated space. Any failure to indicate the name and address of the construction lender on the application, however, shall not relieve any person from the obligation to give to the construction lender the notice required by this section.

(j) A mortgage, deed of trust, or other instrument securing a loan, any of the proceeds of which may be used for the purpose of constructing improvements on real property, shall bear the designation "Construction Trust Deed" prominently on its face and shall state all of the following: (1) the name and address of the lender, and the name and address of the owner of the real property described in the instrument, and (2) a legal description of the real property which secures the loan and, if known, the street address of the property. The failure to be so designated or to state any of the information required by this subdivision shall not affect the validity of the mortgage, deed of trust, or other instrument.

Failure to provide this information on this instrument when recorded shall not relieve persons required to give preliminary notice under this section from that duty.

The county recorder of the county in which the instrument is recorded shall indicate in the general index of the official records of the county that the instrument secures a construction loan.

(k) Every contractor and subcontractor who is required pursuant to a collective bargaining agreement to pay supplementary fringe benefits into an express trust fund described in Section 3111, and who has failed to do so shall cause to be given to the trust fund and to the construction lender, if any, or to the reputed construction lender, if any, not later than the date the payment due to the trust fund became delinquent, a written notice containing all of the following:

(1) The name of the owner and the contractor.

(2) A description of the jobsite sufficient for identification.

(3) The identity and address of the express trust fund.

(4) The total number of straight time and overtime hours on each job, payment for which the contractor or subcontractor is delinquent

to the express trust.

(5) The amount then past due and owing.

Failure to give this notice shall constitute grounds for disciplinary action by the Registrar of Contractors.

(*l*) Every written contract entered into between a property owner and an original contractor shall provide space for the owner to enter his or her name and address of residence; and place of business if any. The original contractor shall make available the name and address of residence of the owner to any person seeking to serve the notice specified in subdivision (c).

(m) Every written contract entered into between a property owner and an original contractor, except home improvement contracts and swimming pool contracts subject to Article 10 (commencing with Section 7150) of Chapter 9 of Division 3 of the Business and Professions Code, shall provide space for the owner to enter the name and address of the construction lender or lenders. The original contractor shall make available the name and address of the construction lender or lenders to any person seeking to serve the notice specified in subdivision (c). Every contract entered into between an original contractor and subcontractor, and between subcontractors, shall provide a space for the name and address of the owner, original contractor, and any construction lender.

(n) Where one or more construction loans are obtained after commencement of construction, the property owner shall provide the name and address of the construction lender or lenders to each person who has given the property owner the notice specified in subdivision (c).

(o) (1) Each person who has served a preliminary 20-day notice pursuant to subdivision (f) may file the preliminary 20-day notice with the county recorder in the county in which any portion of the property is located. A preliminary 20-day notice filed pursuant to this section shall contain all of the following:

(A) The name and address of the person furnishing the labor, service, equipment, or materials.

(B) The name of the person who contracted for purchase of the labor, service, equipment, or materials.

(C) The common street address of the jobsite.

(2) Upon the acceptance for recording of a Notice of Completion or Notice of Cessation the County Recorder shall mail to those persons who have filed a preliminary 20-day notice, notification that a Notice of Completion or Notice of Cessation has been recorded on the property, and shall affix the date that the Notice of Completion or Notice of Cessation was recorded with the county recorder.

(3) The failure of the county recorder to mail the notification to the person who filed a preliminary 20-day notice, or the failure of those persons to receive the notification or to receive complete notification, shall not affect the period within which a claim of lien is required to be recorded. However, the county recorder shall make a good faith effort to mail notification to those persons who have filed

the preliminary 20-day notice under this section and to do so within five days after the recording of a notice of completion or notice of cessation.

(4) This new function of the county recorder shall not become operative until July 1, 1988. The county recorder may cause to be destroyed all documents filed pursuant to this section, two years after the date of filing.

(5) The preliminary 20-day notice which a person may file pursuant to this subdivision is for the limited purpose of facilitating the mailing of notice by the county recorder of recorded notices of completion and notices of cessation. The notice which is filed is not a recordable document and shall not be entered into those official records of the county which by law impart constructive notice. Notwithstanding any other provision of law, the index maintained by the recorder of filed preliminary 20-day notices shall be separate and distinct from those indexes maintained by the county recorder of those official records of the county which by law impart constructive notice. The filing of a preliminary 20-day notice with the county recorder does not give rise to any actual or constructive notice with respect to any party of the existence or contents of a filed preliminary 20-day notice nor to any duty of inquiry on the part of any party as to the existence or contents of that notice.

SEC. 4. Section 3098 of the Civil Code is amended to read:

3098. "Preliminary 20-day notice (public work)" means a written notice from a claimant that was given prior to the assertion of a claim against a payment bond, or the filing of a stop notice on public work, and is required to be given under the following circumstances:

(a) In any case in which the law of this state affords a right to a person furnishing labor or materials for a public work who has not been paid therefor to assert a claim against a payment bond, or to file a stop notice with the public agency concerned, and thereby cause the withholding of payment from the contractor for the public work, any such person having no direct contractual relationship with the contractor, other than a person who performed actual labor for wages or an express trust fund described in Section 3111, may file the preliminary notice, but no payment shall be withheld from the contractor pursuant to that notice unless the person has caused written notice to be given to the contractor, the subcontractors with whom the claimant has contracted, and the public agency concerned, not later than 20 days after the claimant has first furnished labor, services, equipment, or materials to the jobsite, stating with substantial accuracy a general description of labor, service, equipment, or materials furnished or to be furnished, and the name of the party to whom the same was furnished. This notice shall be served by mailing the same by first-class mail, registered mail, or certified mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business, or his or her residence, or by personal service. In case of any public works constructed by the Department of Public

Works or the Department of General Services of the state, such notice shall be served by mailing in the same manner as above, addressed to the office of the disbursing officer of the department constructing the work, or by personal service upon the officer. When service is by registered or certified mail, service is complete at the time of the deposit of the registered or certified mail.

(b) Where the contract price to be paid to any subcontractor on a particular work of improvement exceeds four hundred dollars ($400), the failure of that contractor, licensed under Chapter 9, (commencing with Section 7000) of Division 3 of the Business and Professions Code, to give the notice provided for in this section, constitutes grounds for disciplinary action by the Registrar of Contractors.

(c) The notice requirements of this section shall not apply to an express trust fund described in Section 3111.

(d) If labor, service, equipment, or materials have been furnished to a jobsite by a claimant who did not give a preliminary notice pursuant to subdivision (a), that claimant shall not be precluded from giving a preliminary notice at any time thereafter. The claimant shall, however, be entitled to assert a claim against a payment bond and file a stop notice only for labor, service, equipment, or material furnished within 20 days prior to the service of the preliminary notice, and at any time thereafter.

SEC. 5. Section 3240 of the Civil Code is repealed.

SEC. 6. Section 3241 of the Civil Code is amended to read:

3241. (a) The written notice to be given to the surety and the bond principal may be given by personal delivery, or by depositing the notice in the mail, postage prepaid, certified or registered, and addressed in accordance with any of the following that may be applicable:

(1) If to an individual surety, at his or her residence or place of business, if known. If to an individual surety whose residence is unknown, then in care of the clerk of the county in which the bond has been recorded.

(2) If to a corporate surety, at the office of or in care of the agent designated by the surety in the bond as the address to which notice shall be sent.

(3) At the office of or in care of any officer of the surety in this state.

(4) At the office of or in care of the statutory agent of the surety in this state.

(5) To the bond principal at the last known address.

(6) By service in the manner provided by law for the service of a summons in a civil action.

(b) The written notice described in subdivision (a) shall contain all of the following:

(1) The kind of labor, services, equipment, or materials furnished or agreed to be furnished by the claimant.

(2) The name of the person to or for whom the labor, services,

equipment, or materials were furnished.

(3) The amount in value, as near as may be determined, of any labor, services, equipment, or materials already furnished or to be furnished.

SEC. 7. Section 3242 is added to the Civil Code, to read:

3242. (a) In order to enforce a claim upon any payment bond given in connection with a private work, a claimant shall give the 20-day private work preliminary notice provided in Section 3097.

(b) If the 20-day private work preliminary notice was not given as provided in Section 3097, a claimant may enforce a claim by giving written notice to the surety and the bond principal as provided in Section 3241 within 15 days after recordation of a notice of completion. If no notice of completion has been recorded, the time for giving written notice to the surety is extended to 75 days after completion of the work of improvement.

SEC. 8. Section 3252 of the Civil Code is amended to read:

3252. (a) In order to enforce a claim upon any payment bond given in connection with a public work, a claimant shall give the 20-day public works preliminary bond notice as provided in Section 3098.

(b) If the 20-day public work preliminary bond notice was not given as provided in Section 3098, a claimant may enforce a claim by giving written notice to the surety and the bond principal as provided in Section 3253 within 15 days after recordation of a notice of completion. If no notice of completion has been recorded, the time for giving written notice to the surety is extended to 75 days after completion of the work of improvement.

SEC. 9. Section 3253 is added to the Civil Code, to read:

3253. (a) The written notice to be given to the surety and the bond principal pursuant to Section 3252 may be given by personal delivery, or by depositing the notice in the mail, postage prepaid, certified or registered, and addressed in accordance with any of the following that may be applicable:

(1) If to an individual surety, at his or her residence or place of business, if known. If to an individual surety whose residence is unknown, then in care of the clerk of the county in which the bond has been recorded.

(2) If to a corporate surety, at the office of or in care of the agent designated by the surety in the bond as the address to which notice shall be sent.

(3) At the office of or in care of any officer of the surety in this state.

(4) At the office of or in care of the statutory agent of the surety in this state.

(5) To the bond principal at the last known address.

(6) By service in the manner provided by law for the service of a summons in a civil action.

(b) The written notice described in subdivision (a) shall contain all of the following:

(1) The kind of labor, services, equipment, or materials furnished or agreed to be furnished by the claimant.

(2) The name of the person to or for whom the labor, services, equipment, or materials were furnished.

(3) The amount in value, as near as may be determined, of any labor, services, equipment, or materials already furnished or to be furnished.

CHAPTER 975

An act to add Sections 8405, 60706.1, and 60707.1 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 8405 is added to the Revenue and Taxation Code, to read:

8405. (a) Notwithstanding any other provision of this part, any person who willfully evades or attempts in any manner to evade or defeat the payment of the tax imposed by this part is guilty of a misdemeanor punishable by a fine of not less than five thousand dollars ($5,000) and not more than twenty thousand dollars ($20,000), imprisonment, or both the fine and imprisonment in the discretion of the court. In addition to the fine or imprisonment, or both, each person convicted under this section shall pay up to two dollars ($2) for each gallon of motor vehicle fuel, or portion thereof, knowingly refined, manufactured, produced, blended, compounded, imported, possessed, kept, stored, or retained for the purpose of distribution, or distributed or offered for distribution in violation of this section, as determined by the court.

(b) Proceeds of the assessed penalty shall be distributed to the treasurer of the county in which the action was brought for allocation to the prosecuting agency in the amount necessary to reimburse the agency for its costs of prosecution, and to the county for its reasonable costs of administration of this paragraph. Any remaining proceeds shall be deposited in the Motor Vehicle Fuel Account in the Transportation Tax Fund, and shall be available, upon appropriation by the Legislature, to pay administrative costs of the board to enforce this part.

SEC. 2. Section 60706.1 is added to the Revenue and Taxation Code, to read:

60706.1. In addition to the fine or imprisonment, or both, each person convicted under Section 60706 shall pay, in the court's discretion, up to two dollars ($2) for each gallon of diesel fuel, or portion thereof, knowingly removed, entered, blended, or delivered

into a fuel tank, or possessed, kept, stored, or retained for the purpose of removal or removed, or offered for removal, or entry, or entered, or for sale, or actually sold, or offered for sale, or for the purpose of use, or actually used, or for the purpose of delivery into a fuel tank, or actually delivered into a fuel tank, or offered for delivery into a fuel tank, in violation of Section 60706, as determined by the court. Proceeds of the assessed penalty shall be distributed to the treasurer of the county in which the action was brought. After reimbursing the prosecuting agency for its costs of prosecution, and after deducting its reasonable costs of administration, the remaining proceeds shall be distributed to the Motor Vehicle Fuel Account in the Transportation Tax Fund. Funds distributed pursuant to this section to the Motor Vehicle Fuel Account shall be available, upon appropriation by the Legislature, to pay administrative costs of the board to enforce this part.

SEC. 3. Section 60707.1 is added to the Revenue and Taxation Code, to read:

60707.1. In addition to the fine or imprisonment, or both, each person convicted under Section 60707 shall pay, in the court's discretion, up to two dollars ($2) for each gallon of diesel fuel, or portion thereof, knowingly removed, entered, blended, or delivered into a fuel tank, or possessed, kept, stored, or retained for the purpose of removal or removed, or offered for removal, or entry, or entered, or for the purpose of sale, or actually sold, or offered for sale, or for the purpose of use, or actually used, or delivery into a fuel tank, or delivered into a fuel tank, or offered for delivery into a fuel tank, in violation of Section 60707, as determined by the court. Proceeds of the assessed penalty shall be distributed to the treasurer of the county in which the action was brought. After reimbursing the prosecuting agency for its costs of prosecution, and after deducting its reasonable costs of administration, the remaining proceeds shall be distributed to the Motor Vehicle Fuel Account in the Transportation Tax Fund. Funds distributed pursuant to this section to the Motor Vehicle Fuel Account shall be available, upon appropriation by the Legislature, to pay administrative costs of the board to enforce this part.

SEC. 4. Sections 2 and 3 of this act shall become operative only if Senate Bill 840 of the 1993–94 Regular Session is chaptered and becomes operative.

CHAPTER 976

An act to add Section 6902 to the Labor Code, and to add Section 7108 to the Public Contract Code, relating to employment.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 6902 is added to the Labor Code, to read:

6902. (a) For purposes of this section, "revenue service" means passenger train service during which passengers are carried or are scheduled to be carried.

(b) For purposes of this section, "local agency" means any city, county, special district, or other public entity in the state, including a charter city or a charter county.

(c) Except as otherwise provided by subdivision (e) of Section 6901, during revenue service provided by a local agency, or by any entity under contract with a local agency, there shall be in addition to the train operator at least one qualified employee inside a train car set of six or fewer coaches and at least two qualified employees inside a train car set of seven or more coaches.

(d) (1) A request for proposal or request for bid to provide revenue service issued by a local agency shall require compliance with subdivision (c).

(2) A contract to provide revenue service awarded by a local agency shall require compliance with subdivision (c).

(3) If a court of competent jurisdiction determines that an entity receiving a request for proposal or request for bid from a local agency for revenue service is exempt from the requirements of this section, all other entities that received the same request for proposal or request for bid shall also be exempt from the requirements of this section in responding to that request for proposal or request for bid.

(e) This section does not apply to heavy rail transit systems that are owned or operated by a public entity, or to light rail public transit systems.

SEC. 2. Section 7108 is added to the Public Contract Code, to read:

7108. Any contract of a public entity to provide train service shall require compliance with the personnel requirements of Chapter 2 (commencing with Section 6900) of Part 2 of Division 5 of the Labor Code.

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

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 977

An act to amend Section 66463.5 of, and to add Sections 66451.4 and 66451.7 to, the Government Code, relating to subdivisions.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 66451.4 is added to the Government Code, to read:

66451.4. No advisory agency or legislative body shall disapprove an application for a tentative, final, or parcel map in order to comply with the time limits specified in this chapter unless there are reasons for disapproval other than the failure to timely act in accordance with the time limits specified in this chapter.

SEC. 2. Section 66451.7 is added to the Government Code, to read:

66451.7. Applications for an exception from the Subdivision Map Act pursuant to Section 66412, and applications for parcel map waivers pursuant to Section 66428, shall be acted upon by a local agency within 60 days of the application being deemed complete pursuant to Section 65943.

SEC. 3. Section 66463.5 of the Government Code is amended to read:

66463.5. (a) When a tentative map is required, an approved or conditionally approved tentative map shall expire 24 months after its approval or conditional approval, or after any additional period of time as may be prescribed by local ordinance, not to exceed an additional 12 months.

(b) The expiration of the approved or conditionally approved tentative map shall terminate all proceedings and no parcel map of all or any portion of the real property included within the tentative map shall be filed without first processing a new tentative map. Once

a timely filing is made, subsequent actions of the local agency, including, but not limited to, processing, approving, and recording, may lawfully occur after the date of expiration of the tentative map. Delivery to the county surveyor or city engineer shall be deemed a timely filing for purposes of this section.

(c) Upon application of the subdivider filed prior to the expiration of the approved or conditionally approved tentative map, the time at which the map expires may be extended by the legislative body or by an advisory agency authorized to approve or conditionally approve tentative maps for a period or periods not exceeding a total of three years. Prior to the expiration of an approved or conditionally approved tentative map, upon the application by the subdivider to extend that map, the map shall automatically be extended for 60 days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first. If the advisory agency denies a subdivider's application for an extension, the subdivider may appeal to the legislative body within 15 days after the advisory agency has denied the extension.

(d) (1) The period of time specified in subdivision (a) shall not include any period of time during which a development moratorium, imposed after approval of the tentative map, is in existence. However, the length of the moratorium shall not exceed five years.

(2) Once a moratorium is terminated, the map shall be valid for the same period of time as was left to run on the map at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the map shall be valid for 120 days following the termination of the moratorium.

(e) The period of time specified in subdivision (a), including any extension thereof granted pursuant to subdivision (c), shall not include the period of time during which a lawsuit involving the approval or conditional approval of the tentative map is, or was, pending in a court of competent jurisdiction, if the stay of the time period is approved by the local agency pursuant to this section. After service of the initial petition or complaint in the lawsuit upon the local agency, the subdivider may apply to the local agency for a stay pursuant to the local agency's adopted procedures. Within 40 days after receiving the application, the local agency shall either stay the time period for up to five years or deny the requested stay. The local agency may, by ordinance, establish procedures for reviewing the requests, including, but not limited to, notice and hearing requirements, appeal procedures, and other administrative requirements.

(f) For purposes of this section, a development moratorium shall include a water or sewer moratorium or a water and sewer moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land, including the public agency with the authority to approve or conditionally approve the tentative map, which thereafter prevents, prohibits, or delays the approval of a parcel map.

(g) Notwithstanding subdivisions (a), (b), and (c), for the purposes of Chapter 4.5 (commencing with Section 66498.1), subdivisions (g) and (h) of Section 66452.6 shall apply to vesting tentative maps prepared in connection with a parcel map except that, for purposes of this section, the time periods specified in subdivisions (g) and (h) of Section 66452.6 shall be determined from the recordation of the parcel map instead of the final map.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 978

An act to amend Section 11011 of the Government Code, relating to state agencies.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 11011 of the Government Code is amended to read:

11011. (a) On or before December 31st of each year, each state agency shall make a review of all proprietary state lands (other than tax-deeded land, land held for highway purposes, lands under the jurisdiction of the State Lands Commission, land which has escheated to the state or which has been distributed to the state by court decree in estates of deceased persons, and lands under the jurisdiction of the State Coastal Conservancy) over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services. These lands shall include, but not be limited to, the following:

(1) Land not currently being utilized, or currently being underutilized, by the state agency for any existing or ongoing state program.

(2) Land for which the state agency has not identified any specific utilization relative to future programmatic needs.

(3) Land not identified by the state agency within its master plans for facility development.

(b) Jurisdiction of all land reported as excess shall be transferred to the Department of General Services, when requested by the director thereof, for sale or disposition under this section or as may

be otherwise authorized by law.

(c) The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

(d) The Department of General Services shall review and consider reports submitted to the Director of General Services pursuant to Section 66907.12 of the Government Code and Section 31104.3 of the Public Resources Code prior to recommending or taking any action on surplus land, and shall also circulate the reports to all agencies which are required to report excess land pursuant to this section. In recommending or determining the disposition of surplus lands, the Director of General Services may give priority to proposals by the state which involve the exchange of surplus lands for lands listed in those reports.

(e) Except as otherwise provided by any other provision of law, whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the Department of General Services determines that any land is needed by any other state agency it may transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best interests of the state.

(f) When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to the authorization, upon any terms and conditions and subject to any reservations and exceptions as the Department of General Services may deem to be for the best interests of the state. The Department of General Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

(1) A description or other identification of the property.

(2) The date of authorization.

(3) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange.

(4) The present status of the property, if not sold or otherwise disposed of at the time of the report.

(g) Except as otherwise specified by law, moneys received from any property disposition, including the sale, lease, exchange, or other means, that is received pursuant to this section shall be paid into the General Fund.

For purposes of this section, net proceeds shall be defined as gross proceeds less all costs directly related to the completion of the transaction including, but not limited to, selling costs, transfer fees, commissions, and costs incurred by the Department of General Services.

(h) Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under this section, shall be deposited in the General Fund in the account established by Section 15863. Any expenditures required to maintain, repair, care for, and sell this real property shall be paid from the appropriation made by Section 15863.

(i) Nothing contained in this section shall be construed to prohibit the sale, letting, or other disposition of any state lands pursuant to any law now or hereafter enacted authorizing the sale, letting, or disposition.

CHAPTER 979

An act to amend Sections 11366.7, 11473, and 11473.5 of the Health and Safety Code, and to add Section 1463.10 to the Penal Code, relating to controlled substances.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 11366.7 of the Health and Safety Code is amended to read:

11366.7. (a) This section shall apply to the following:

(1) Any chemical or drug.

(2) Any laboratory apparatus or device.

(b) Any retailer or wholesaler who sells any item in paragraph (1) or (2) of subdivision (a) with knowledge or the intent that it will be used to unlawfully manufacture, compound, convert, process, or prepare a controlled substance for unlawful sale or distribution, shall be punished by imprisonment in a county jail for not more than one year, or in the state prison, or by a fine not exceeding twenty-five thousand dollars ($25,000), or by both that imprisonment and fine. Any fine collected pursuant to this section shall be distributed as specified in Section 1463.10 of the Penal Code.

SEC. 2. Section 11473 of the Health and Safety Code is amended to read:

11473. (a) All seizures under provisions of this chapter, except seizures of vehicles, boats, or airplanes, as specified in subdivision (e) of Section 11470, or seizures of moneys, negotiable instruments, securities, or other things of value as specified in subdivision (f) of Section 11470, shall, upon conviction of the owner or defendant, be ordered destroyed by the court in which conviction was had.

(b) Law enforcement may request of the court that certain uncontaminated science equipment be relinquished to a school or school district for science classroom education in lieu of destruction.

SEC. 3. Section 11473.5 of the Health and Safety Code is amended to read:

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

(b) If the court finds that the property was not lawfully possessed by the defendant, law enforcement may request of the court that certain uncontaminated instruments or paraphernalia be relinquished to a school or school district for science classroom education in lieu of destruction.

SEC. 4. Section 1463.10 is added to the Penal Code, to read:

1463.10. Notwithstanding Section 1463, fines and forfeitures which are collected for a conviction of a violation of Section 11366.7 of the Health and Safety Code and which are required to be deposited with the county treasurer pursuant to Section 1463 shall be allocated as follows:

(a) To reimburse any local agency for the reasonable costs of the removal and disposal, or storage, of any chemical or drug, or any laboratory apparatus or device, sold by a person convicted under Section 11366.7 of the Health and Safety Code.

(b) The balance of the amount collected, if any, shall be deposited by the county treasurer pursuant to Section 1463.

CHAPTER 980

An act to amend Sections 922.5, 1763, 1764.1, 1764.7, 1765.1, 1769, and 1779 of, to add Sections 1766 and 1772 to, and to repeal Section 1780.68 of, the Insurance Code, relating to insurance.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 922.5 of the Insurance Code is amended to read:

922.5. Credit in accounting and financial statement permitted by this code on account of reinsurance ceded to an alien reinsurer other than one which complies with Article 2 (commencing with Section 1580) of Chapter 4 and includes in the statements required by that article all reserves and liabilities arising out of that reinsurance shall be allowed only:

(a) To the extent of the amount of deposits by, and funds withheld from, the alien reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if the deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or are placed in trust for those purposes in a qualified United States financial institution, if withdrawals from the trust cannot be made without the consent of the ceding insurer. For purposes of this subdivision, "qualified United States financial institution" means an institution that (1) is organized, or in the case of a United States branch or agency office of a foreign banking organization is licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers, (2) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies, and (3) is insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation.

(b) (1) Where the alien reinsurer maintains sufficient assets in the United States for the protection of policyholders in the United States and operates its business in a manner which satisfies the commissioner that it maintains standard and financial conditions reasonably comparable to those required of admitted insurers and that it is able to pay losses in the United States and that it will submit itself to the jurisdiction of the courts of this state, or a court of competent jurisdiction in any state of the United States and designate the commissioner or a designated attorney in this state as its agent for service of process in this state in any action, suit, or proceeding instituted by or on behalf of the ceding insurer for any matter arising out of the reinsurance.

(2) Where it has been demonstrated by any ceding insurer to the satisfaction of the commissioner that the alien reinsurer is a group including incorporated and individual unincorporated underwriters that maintains a trusteed account representing the group's liabilities and attributable to business written in the United States and, in addition, the group maintains a trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of United States ceding insurers of any members of the group, the commissioner shall grant accreditation to the group. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members. The group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

(c) To the extent that the amount of a clean and irrevocable letter of credit issued for a term of one year conforming to the requirements set forth below, is a substitute for advances for claims, unearned premium, and all other policy and contract liabilities and

reserve obligations to be made by an alien reinsurer in connection with its liability under a specific reinsurance agreement. The clean and irrevocable letter of credit shall be issued and maintained under arrangements satisfactory to the commissioner as constituting security to the ceding insurer substantially equal to that of a deposit under subdivision (a), and that it shall be (1) issued or confirmed by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the commissioner, (2) issued by a California state chartered bank which is insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation and meets the conditions established by the commissioner, or (3) issued by or confirmed a United States office of a foreign banking corporation that is (A) licensed under the laws of the United States or any state thereof, (B) regulated, supervised, and examined by an agency of the United States or a state agency having regulatory authority with respect to banks and trust companies, (C) designated by the Securities Valuation office of the National Association of Insurance Commissioners as meeting its credit standards for issuing or confirming letters of credit, and (D) of a financial standing satisfactory to the commissioner. For purposes of this subdivision, a confirming bank undertakes the identical terms and obligations of the issuer including those set forth herein. The changes enacted to this subdivision at the 1982 Regular Session shall apply only to life insurers.

(d) (1) When it has been demonstrated by any ceding insurer to the satisfaction of the commissioner that the alien reinsurer is a group of incorporated insurers under common administration that maintains a trust fund in a qualified United States financial institution for the payment of the claims of its United States policyholders and ceding insurers, their assigns, and successors in interest, that has continuously transacted an insurance business outside the United States for at least three years immediately preceding the date of the financial statement for which the ceding insurer is requesting reinsurance credit, that is in good standing with its domiciliary regulator, whose individual insurer members maintain standards and financial condition reasonably comparable to admitted insurers, that submits to this state's authority to examine its books and records and bears the expense of examination, and that has an aggregate policyholder's surplus of ten billion dollars ($10,000,000,000), the commissioner shall grant accreditation to that group. The trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of that group, plus the group shall maintain a joint trusteed surplus of which one hundred million dollars ($100,000,000) shall be deposited and maintained with a qualified United States financial institution, and shall be held jointly for the exclusive benefit of United States ceding insurers of any member of the group as additional security for any of those liabilities, and each member of the group shall make

available to the commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant. The group of incorporated insurers shall file with the commissioner a certified copy of the trust agreement. Each member insurer or reinsurer shall also submit to this state's authority to examine its books and records and bears the expense of examination. The commissioner shall have the authority to require additional amounts to be held in the trust as a condition for initial or continued accreditation if the commissioner determines that these additional amounts are required for the protection of ceding insurers.

(2) The group and, if the commissioner requests, any member of the group, shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners Annual Statement form by licensed insurers to enable the commissioner to determine the sufficiency of the trust fund.

(3) The trust described in paragraph (1) shall be established in a form approved by the commissioner. The trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. The assuming insurer or its legal successor shall not withdraw its funds from the trust without notice to the commissioner and the ceding insurer. The investments of the trust shall be limited to "general investments" and "excess investments" that would qualify as authorized investments for a California insurer.

(4) No later than February 28 of each year the trustees shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end.

(5) For purposes of this subdivision, "qualified United States financial institution" means an institution that is (A) a member of the Federal Reserve System and of financial standing satisfactory to the commissioner, (B) a California state chartered bank that is insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation and meets the conditions established by the commissioner, or (C) a United States office of a foreign banking corporation that is (i) licensed under the laws of the United States or any state thereof, (ii) regulated, supervised, and examined by an agency of the United States or a state agency having regulatory authority with respect to banks and trust companies, (iii) designated by the Securities Valuation Office of the National Association of Insurance Commissioners as meeting its credit standards for issuing or confirming letters of credit, and (iv) of a financial standing that is satisfactory to the commissioner.

(6) For purposes of this section, the terms "deposits" and "funds" include securities authorized as general investments by Article 3 (commencing with Section 1170) of Chapter 2, but not to exceed current market value.

(7) For purposes of this subdivision, "group of incorporated

insurers" means an incorporated association of individual incorporated assuming insurers wherein each member insured underwrites solely for its own account.

(8) "Accreditation" means the issuance of a certificate of recognition as an accredited reinsurer by the commissioner to an assuming insurer not authorized to do any insurance business in this state but which (A) presents satisfactory evidence to the commissioner that it meets the applicable standards of solvency required in this state and (B) is in compliance with the conditions prescribed by regulation under which a ceding insurer may be allowed credit for reinsurance recoverable from an insurer not authorized in this state.

(9) The group of incorporated insurers shall annually file a certified copy of this annual report by the trustee.

The commissioner shall recoup administrative cost pursuant to paragraph (1) of subdivision (a) of Section 12921.6.

SEC. 1.5. Section 1763 of the Insurance Code is amended to read:

1763. (a) A surplus line broker may solicit and place insurance, other than as excepted in Section 1761, with nonadmitted insurers only if that insurance can not be procured from insurers admitted for the particular class or classes of insurance and that actually write the particular type of insurance in this state. Each surplus line broker shall be responsible to ensure that a diligent search is made among insurers that are admitted to transact and are actually writing the particular type of insurance in this state before procuring the insurance from a nonadmitted insurer. Each surplus line broker shall file with the commissioner or his or her designee, within 60 days of placing any insurance with a nonadmitted insurer, a written report, that shall be kept confidential, regarding the insurance. This report shall include the name and address of the insured, the identity of the insurer or insurers, a description of the subject and location of the risk, the amount of premium charged for the insurance, a copy of the declarations page of the policy or a copy of the surplus line broker's certificate or binder evidencing the placement of insurance, and other pertinent information that the commissioner may reasonably require. In addition, each surplus line broker shall file a standardized form to be prescribed by the commissioner setting forth the diligent efforts to place the coverage with admitted insurers and the results of these efforts. The form shall be signed by a person licensed under this code who has made the diligent search required by this section or who supervised an unlicensed person or persons who actually conducted the search. The insurance shall not be placed with a nonadmitted insurer for the purpose of procuring a rate lower than the lowest rate that will be accepted by any admitted insurer except as provided by subdivision (c). The commissioner may make and publish reasonable rules and regulations, consistent with this chapter, in respect to transactions governed thereby and the basis or bases for his or her determinations hereunder.

(b) It shall be prima facie evidence that a diligent search among

admitted insurers has been made if the standardized form filed as required by subdivision (a) establishes that three admitted insurers that actually write the particular type of insurance in this state have declined the risk, or that fewer than three admitted insurers actually write the particular type of insurance. The commissioner, or his or her designee, may review the form for the accuracy of the information provided on it, including, but not limited to, whether the listed insurers actually write that type of insurance, and whether the three insurers declined the risk. The commissioner may take disciplinary action against the person signing the form for any misrepresentation made in the form due to the negligence of or the result of an intentional act by that person or the person or persons who actually conducted the search. Those actions may include any action authorized to be taken against a licensed person by this code. Nothing in this subdivision shall preclude the commissioner or his or her designee from directing the surplus line broker to conduct a further or additional search among admitted insurers for similar placements in the future.

(c) It shall be conclusively presumed that insurance is placed in violation of this section if the insurance is actually placed with a nonadmitted insurer at a lower rate of premium or lower premium than the lowest rate of premium or the lowest premium that could be obtained from an admitted insurer unless, at the time the insurance attaches, there is filed with the commissioner a statement describing the insurance, specifying the rate and the nearest procurable rates from admitted insurers. The statement shall include an explanation of the reasons that the insurance must be placed with a nonadmitted insurer even though it is available from an admitted insurer. Unless the commissioner, or his or her designee, within five days after that filing notifies the filing broker that in his or her opinion the placing of the insurance constitutes a violation of this section, the broker may thereafter maintain in effect that insurance. If within that five-day period the commissioner notifies the surplus line broker that the insurance is in violation of this section and orders the broker to effect termination of that insurance within 10 days from the notice, and the broker fails or refuses to effect that termination, that failure or refusal is a violation of this section.

(d) Statements filed under this section are not subject to public inspection unless the commissioner determines that the public interest or the welfare of the filing broker requires that any statement be made public.

(e) For purposes of this section, "type of insurance" means the hazard or combination of hazards covered by a contract of insurance.

(f) Notwithstanding subdivision (a), this section shall not apply to insurance issued or delivered in this state by a nonadmitted Mexican insurer by and through a surplus line broker affording coverage exclusively in the Republic of Mexico on property located temporarily or permanently in, or operations conducted temporarily or permanently within, the Republic of Mexico.

SEC. 2. Section 1764.1 of the Insurance Code is amended to read:

1764.1. (a) (1) Every nonadmitted insurer, in the case of insurance to be purchased by a resident of this state pursuant to Section 1760, and surplus line broker, in the case of any insurance with a nonadmitted carrier to be transacted by the surplus line broker, shall be responsible to ensure that, at the time of accepting an application for any insurance policy issued by a nonadmitted insurer, the signature of the applicant on the disclosure statement set forth in subdivision (b) is obtained. The surplus line broker shall maintain a copy of the signed disclosure statement in his or her records for a period of at least five years. These records shall be made available to the commissioner and the insured upon request. This disclosure shall be signed by the applicant, and is not subject to any limited power of attorney agreement between the applicant and an agent or broker, or a surplus line broker. The disclosure statement shall be in boldface 16-point type on a freestanding document. In addition, every policy issued by a nonadmitted insurer and every certificate evidencing the placement of insurance shall contain, or have affixed to it by the insurer or surplus line broker, the disclosure statement set forth in subdivision (b) in boldface 16-point type on the front page of the policy.

(2) In any case where the applicant has not received and completed the signed disclosure form required by this section, he or she may cancel the insurance so placed. The cancellation shall be on a pro rata basis as to premium, and the applicant shall be entitled to the return of any broker's fees charged for the placement.

(b) The following notice shall be provided to policyholders and applicants for insurance as provided by subdivision (a), and shall be printed in English and in the language principally used by the surplus line broker and nonadmitted insurer to advertise, solicit, or negotiate the sale and purchase of surplus line insurance. The surplus line broker and nonadmitted insurer shall use the appropriate bracketed language for application and issued policy disclosures:

"NOTICE:

1. THE INSURANCE POLICY THAT YOU [HAVE PURCHASED [ARE APPLYING TO PURCHASE IS BEING ISSUED BY AN INSURER THAT IS NOT LICENSED BY THE STATE OF CALIFORNIA. THESE COMPANIES ARE CALLED "NONADMITTED" OR "SURPLUS LINE" INSURERS.

2. THE INSURER IS NOT SUBJECT TO THE FINANCIAL SOLVENCY REGULATION AND ENFORCEMENT WHICH APPLIES TO CALIFORNIA LICENSED INSURERS.

3. THE INSURER DOES NOT PARTICIPATE IN ANY OF THE INSURANCE GUARANTEE FUNDS CREATED BY CALIFORNIA LAW. THEREFORE, THESE FUNDS WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR ASSETS IF THE INSURER BECOMES INSOLVENT AND IS UNABLE TO MAKE PAYMENTS

AS PROMISED.

4. FOR ADDITIONAL INFORMATION ABOUT THE INSURER YOU SHOULD ASK QUESTIONS OF YOUR INSURANCE AGENT, BROKER, OR "SURPLUS LINE" BROKER OR CONTACT THE CALIFORNIA DEPARTMENT OF INSURANCE, AT THE FOLLOWING TOLL-FREE TELEPHONE NUMBER: _____."

(c) When a contract is issued to an industrial insured neither the nonadmitted insurer nor the surplus line broker is required to provide the notice required in this section except on the confirmation of insurance, the certificate of placement, or the policy, whichever is first provided to the insured, nor is the insurer or surplus line broker required to obtain the insured's signature. The producer shall ensure that the notice affixed to the confirmation of insurance, certificate of placement, or the policy is provided to the insured. The producer shall insert the current toll-free telephone number of the Department of Insurance as provided in paragraph 4 of the notice.

(1) An industrial insured is an insured:

(A) Which employs at least 25 employees on average during the prior 12 months; and

(B) Which has aggregate annual premiums for insurance for all risks other than workers' compensation and health coverage totaling no less than twenty-five thousand dollars ($25,000); or

(C) Which obtains insurance through the services of a full-time employee acting as an insurance manager or a continuously retained insurance consultant. A "continuously retained insurance consultant" does not include: (i) Any agent or broker through whom the insurance is being placed, (ii) any subagent or subproducer involved in the transaction, or (iii) any agent or broker which is a business organization employing or contracting with any person mentioned in clauses (i) and (ii).

(2) The surplus line broker shall be responsible to ensure that the applicant is an industrial insured. A surplus line broker who reasonably relies on information provided in good faith by the applicant, whether directly or through the producer, shall be deemed to be in compliance with this requirement.

(d) In the case of commercial insurance coverages, for purposes of compliance with the requirement of subdivision (a) that the signature of the applicant be obtained, the following shall apply:

(1) Where the insurance transaction is not conducted at an in-person, face-to-face meeting, the applicant's signature on the disclosure form may be transmitted by the applicant to the agent or broker via facsimile or comparable electronic transmittal.

(2) Where an applicant requires that insurance coverage be bound immediately, either because existing coverage will lapse within two business days of the time the insurance is bound or because the applicant is required to have coverage in place within two business days, and the applicant cannot meet in person with the

agent or broker to sign the disclosure form, the agent or broker may obtain the signature of the applicant within five days of binding coverage, provided that the applicant may cancel the insurance so placed within five days of receiving the disclosure form from the agent or broker. The cancellation shall be on a pro rata basis, and the applicant shall be entitled to the rescission or return of any broker's fees charged for the placement.

(e) Notwithstanding subdivision (a), this section shall not apply to insurance issued or delivered in this state by a nonadmitted Mexican insurer by and through a surplus line broker affording coverage exclusively in the Republic of Mexico on property located temporarily or permanently in, or operations conducted temporarily or permanently within, the Republic of Mexico.

SEC. 3. Section 1764.7 of the Insurance Code is amended to read:

1764.7. Any person who willfully violates Section 1760.5, 1761, 1763, 1764, 1764.1, 1764.2, 1764.3, 1764.4, 1765.1, 1765.2, 1767, or 1780 is guilty of a public offense and punishable by imprisonment in the state prison, or in a county jail for not exceeding one year or by fine not exceeding ten thousand dollars ($10,000), or by both.

SEC. 4. Section 1765.1 of the Insurance Code is amended to read:

1765.1. No surplus line broker shall place any coverage with a nonadmitted insurer unless the insurer is domiciled in the Republic of Mexico and the placement covers only liability arising out of the ownership, maintenance, or use of a motor vehicle, aircraft, or boat in the Republic of Mexico, or, at the time of placement, the nonadmitted insurer:

(a) (1) Has established its financial stability, reputation, and integrity, for the class of insurance the broker proposes to place, by satisfactory evidence submitted to the commissioner through a surplus line broker.

(2) (A) Has capital and surplus that together total at least fifteen million dollars ($15,000,000). "Capital" shall be as defined in Section 36. "Surplus" shall be defined as assets exceeding the sum of liabilities for losses reported, expenses, taxes, and all other indebtedness and reinsurance of outstanding risks as provided by law and paid-in capital in the case of an insurer issuing or having outstanding shares of capital stock. The type of assets to be used in calculating capital and surplus shall be as follows: at least fifteen million dollars ($15,000,000) shall be in the form of cash, or securities of the same character and quality as specified in Sections 1170 to 1182, inclusive, or in readily marketable securities listed on regulated United States' national or principal regional securities exchanges. The remaining assets shall be in the form just described, or in the form of investments of substantially the same character and quality as described in Sections 1190 to 1202, inclusive. In calculating capital and surplus under this section, the term "same character and quality" shall permit, but not require, the commissioner to approve assets maintained in accordance with the laws of another state or country. The commissioner shall be guided by any limitations,

restrictions, or other requirements of this code or the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual in determining whether assets substantially similar to those described in Sections 1190 to 1202, inclusive, qualify. The commissioner shall retain the discretion to disapprove or disallow any asset that is not of a sound quality, or that he or she deems to create an unacceptable risk of loss to the insurer or to policyholders. Securities specifically valued by the National Association of Insurance Commissioners Securities Valuation Office shall be presumed readily marketable absent evidence to the contrary. Letters of credit will not qualify as assets in the calculation of surplus. If less than fifteen million dollars ($15,000,000), the commissioner has affirmatively found that the capital and surplus is adequate to protect California policyholders. The commissioner shall consider, on determining whether to make this finding, factors such as quality of management, the capital and surplus of any parent company, the underwriting profit and investment income trends, and the record of claims payment and claims handling practices of the nonadmitted insurer, or

(B) In the case of an "Insurance Exchange" created and authorized under the laws of individual states, maintains capital and surplus of not less than fifty million dollars ($50,000,000) in the aggregate. "Capital" shall be as defined in Section 36. "Surplus" shall be defined as assets exceeding the sum of liabilities for losses reported, expenses, taxes, and all other indebtedness and reinsurance of outstanding risks as provided by law and paid-in capital in the case of an insurer issuing or having outstanding shares of capital stock. The type of assets to be used in calculating capital and surplus shall be as follows: at least fifteen million dollars ($15,000,000) shall be in the form of cash, or securities of the same character and quality as specified in Sections 1170 to 1182, inclusive, or in readily marketable securities listed on regulated United States' national or principal regional securities exchanges. The remaining assets shall be in the form just described, or in the form of investments of substantially the same character and quality as described in Sections 1190 to 1202, inclusive. In calculating capital and surplus under this section, the term "same character and quality" shall permit, but not require, the commissioner to approve assets maintained in accordance with the laws of another state or country. The commissioner shall be guided by any limitations, restrictions, or other requirements of this code or the National Association of Insurance Commissioners' Accounting Practices and Procedures Manual in determining whether assets substantially similar to those described in Sections 1190 to 1202, inclusive, qualify. The commissioner shall retain the discretion to disapprove or disallow any asset that is not of a sound quality, or that he or she deems to create an unacceptable risk of loss to the insurer or to policyholders. Securities specifically valued by the National Association of Insurance Commissioners Securities Valuation Office

shall be presumed readily marketable absent evidence to the contrary. Letters of credit will not qualify as assets in the calculation of surplus. In the case of an Insurance Exchange which maintains funds for the protection of all Insurance Exchange policyholders, each individual syndicate seeking to accept surplus line placements of risks resident, located or to be performed in this state shall maintain minimum capital and surplus of not less than six million four hundred thousand dollars ($6,400,000). Each individual syndicate shall increase the capital and surplus required by this paragraph by one million dollars ($1,000,000) each year until it attains a capital and surplus of fifteen million dollars ($15,000,000). In the case of Insurance Exchanges which do not maintain funds for the protection of all Insurance Exchange policyholders, each individual syndicate seeking to accept surplus line placement of risks resident, located or to be performed in this state shall meet the capital and surplus requirements of subparagraph (A) of this paragraph.

(b) (1) In addition, to be eligible as a surplus line insurer, an insurer not domiciled in one of the United States or its territories shall have in force in the United States an irrevocable trust account in a qualified United States financial institution, for the protection of United States policyholders, of not less than five million four hundred thousand dollars ($5,400,000) and consisting of cash, securities acceptable to the commissioner which are authorized pursuant to Sections 1170 to 1182, inclusive, readily marketable securities acceptable to the commissioner which are listed on a regulated United States national or principal regional security exchange, or clean and irrevocable letters of credit acceptable to the commissioner and issued by a qualified United States financial institution. The trust agreement shall be in a form acceptable to the commissioner. The funds in the trust account may be included in any calculation of capital and surplus, except letters of credit, which shall not be included in any calculation.

(2) In the case of a group consisting of incorporated individual insurers, or a combination of both incorporated and unincorporated insurers, which maintains a trust fund of not less than one hundred million dollars ($100,000,000) in a qualified United States financial institution as security to the full amount thereof for all policyholders and creditors in the United States of each member of the group, and the trust complies with the terms and conditions specified in paragraph (1), the group is excepted from the capital and surplus requirements of subdivision (a). The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members.

(3) In the case of a group of incorporated insurers under common administration that maintains a trust fund of not less than one hundred million dollars ($100,000,000) in a qualified United States

financial institution for the payment of claims of its United States policyholders, their assigns, or successors in interest and that complies with the terms and conditions of paragraph (1) that has continuously transacted an insurance business outside the United States for at least three years, that is in good standing with its domiciliary regulator, whose individual insurer members maintain standards and financial condition reasonably comparable to admitted insurers, that submits to this state's authority to examine its books and bears the expense of examination, and that has an aggregate policyholder surplus of ten billion dollars ($10,000,000,000), the group is excepted from the capital and surplus requirements of subdivision (a).

(c) Has caused to be provided to the commissioner the following documents:

(1) The financial documents as specified below, each showing the insurer's condition as of a date not more than 12 months prior to submission:

(A) A copy of an annual statement, prepared in the form prescribed by the NAIC. For an alien insurer, in lieu of an annual statement a licensee may submit a form as set forth by regulation and as prepared by the insurer, and, if listed by the ISI financial report service, the NAIIO, or both, a copy of the most recent annual financial data furnished either to ISI or NAIIO shall also be filed.

(B) A copy of an audited financial report on the insurer's condition that meets the standards of paragraph (D) for foreign insurers or paragraph (E) for alien insurers.

(C) If the insurer is an alien:

(i) A certified copy of the trust agreement referenced in subdivision (b).

(ii) A verified copy of the most recent quarterly statement or list of the assets in the trust.

(D) Financial reports filed pursuant to this section by foreign insurers shall conform to the following standards:

(i) Financial documents shall be certified.

(ii) An audited financial report shall constitute a supplement to the insurer's annual statement, as required by the annual statement instructions issued by the NAIC.

(iii) An audited financial report shall be prepared by an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states where licensed to practiced; and be prepared in conformity with statutory accounting practices prescribed, or otherwise permitted, by the insurance regulator of the insurer's domiciliary jurisdiction.

(iv) An audited financial report shall include information on the insurer's financial position as of the end of the most recent calendar year, and the results of its operations, cash-flows, and changes in capital and surplus for the year then ended.

(v) An audited financial report shall be prepared in a form and

using language and groupings substantially the same as the relevant sections of the insurer's annual statement filed with its domiciliary jurisdiction, and presenting comparatively the amounts as of December 31 of the most recent calendar year and the amounts as of December 31 of the preceding year.

(E) Financial reports filed pursuant to this section by alien insurers shall conform to the following standards:

(i) Except as provided in clause (ii) of subparagraph (C), financial documents should be certified, if certification of a financial document is not available, the document shall be verified.

(ii) Financial documents should be expressed in United States dollars, but may be expressed in another currency, if the exchange rate for the other currency as of the date of the document is also provided.

(iii) The responses provided pursuant to subparagraph (A) of paragraph (1) on the form submitted in lieu of an annual statement should follow the most recent ISI Guide to Alien Reporting Format, "Standard Definitions of Accounting Items." Responses that do not agree with a standard definition shall be fully explained in the form.

(iv) An audited financial report shall be prepared by an independent auditor licensed as such in the insurer's domiciliary jurisdiction or in any state.

(v) An audited financial report shall be prepared in accord with either (I) Generally Accepted Auditing Standards that prescribe Generally Accepted Accounting Principles, or (II) International Accounting Standards as published and revised from time to time by the International Auditing Guidelines published by the International Auditing Practice Committee of the International Federation of Accountants; and shall include financial statement notes and a summary of significant accounting practices.

(F) The commissioner may accept, in lieu of a document described above, any certified or verified financial or regulatory document, statement, or report if the commissioner finds that it possesses reliability and financial detail substantially equal to or greater than the document for which it is proposed to be a substitute.

(G) If one of the financial documents required to be submitted under subparagraphs (A) and (B) is dated within 12 months of submission, but the other document is not so dated, the licensee may use the outdated document if it is accompanied by a supplement. The supplement must meet the same requirements which apply to the supplemented document, and must update the outdated document to a date within the prescribed time period, preferably to the same date as the nonsupplemented document.

(2) A certified copy of the insurer's license issued by its domiciliary jurisdiction, plus a certification of good standing, certificate of compliance, or other equivalent certificate, from either that jurisdiction or, if the jurisdiction issues no such certificates, from any state where it is licensed.

(3) Information on the insurer's agent in California for service of

process, including the agent's full name and address. The agent's address must include a street address where the agent can be reached during normal business hours.

(4) The complete street address, mailing address, and telephone number of the insurer's principal place of business.

(5) A certified or verified explanation, report, or other statement, from the insurance regulatory office or official of the insurer's domiciliary jurisdiction, concerning the insurer's record regarding market conduct and consumer complaints; or, if such information cannot be obtained from that jurisdiction, then such other information as the licensee can procure to demonstrate a good reputation for payment of claims and treatment of policyholders.

(6) A verified statement, from the insurer or licensee, on whether the insurer or any affiliated entity is currently known to be the subject of any order or proceeding regarding conservation, liquidation, or other receivership; or regarding revocation or suspension of a license to transact insurance in any jurisdiction; or otherwise seeking to stop the insurer from transacting insurance in any jurisdiction. The statement shall identify any such proceeding by date, jurisdiction, and relief or sanction sought; and shall attach a copy of any such order.

(d) Has provided any additional information or documentation required by the commissioner which is relevant to the financial stability, reputation, and integrity of the nonadmitted insurer. In making a determination concerning financial stability, reputation, and integrity of the nonadmitted insurer, the commissioner shall consider any analysis, findings, or conclusion made by the National Association of Insurance Commissioners (NAIC) in its review of the insurer for purposes of inclusion on or exclusion from the list of authorized nonadmitted insurers maintained by the NAIC. The commissioner may, but shall not be required to, rely on, adopt, or otherwise accept any analyses, findings, or conclusions of the NAIC, as the commissioner deems appropriate.

(e) Has established that:

(1) All documents required by subdivisions (c) and (d) have been filed. Each of the documents appear after review to be complete, clear, comprehensible, unambiguous, accurate, and consistent.

(2) The documents affirm that the insurer is not subject in any jurisdiction to an order or proceeding that:

(A) Seeks to stop it from transacting insurance.

(B) Relates to conservation, liquidation, or other receivership.

(C) Relates to revocation or suspension of its license.

(3) The documents affirm that the insurer has actively transacted insurance for the three years immediately preceding the filing made under this section, unless an exemption is granted. The commissioner may grant an exemption if the licensee has applied for exemption and demonstrates either of the following:

(A) The insurer meets the condition for any exception set forth in subdivision (a), (b), or (c) of Section 716.

(B) If the insurer has been actively transacting insurance for at least 12 months, and the licensee demonstrates that the exemption is warranted because the insurer's current financial strength, operating history, business plan, ownership and control, management experience, and ability, together with any other pertinent factors, make three years of active insurance transaction unnecessary to establish sufficient reputation.

(4) The documents confirm that the insurer holds a license to issue insurance policies (other than reinsurance) to residents of the jurisdiction that granted the license unless an exemption is granted. The commissioner may grant an exemption if the licensee has applied for an exemption and demonstrates that the exemption is warranted because the insurer proposes to issue in California only commercial coverage, and is wholly owned and actually controlled by substantial and knowledgeable business enterprises that are its policyholders and that effectively govern the insurer's destiny in furtherance of their own business objectives.

(5) The information filed pursuant to paragraph (5) of subdivision (c) or otherwise filed with or available to the commissioner, including reports received from California policyholders, shall indicate that the insurer makes reasonably prompt payment of claims in this state or elsewhere.

(6) The information available to the commissioner shall not indicate that the insurer offers in California a licensee products or rates that violate any provision of this code.

(f) Has been placed on the list of eligible surplus line insurers by the commissioner. The commissioner shall establish a list of all surplus line insurers that have met the requirements of subdivisions (a) to (e), inclusive, and shall publish a master list at least semiannually. Any insurer receiving approval as an eligible surplus line insurer shall be added by addendum to the list at the time of approval, and shall be incorporated into the master list at the next date of publication. If an insurer appears on the most recent list, it shall be presumed that the insurer is an eligible surplus line insurer, unless the commissioner or his or her designee has mailed or causes to be mailed notice to all surplus line brokers and special lines' surplus line brokers that the commissioner has withdrawn the insurer's eligibility. Upon receipt of notice, the surplus line broker or special lines' surplus line broker shall make no further placements with the insurer. Nothing in this subdivision shall limit the commissioner's discretion to withdraw an insurer's eligibility.

(g) (1) Except as provided by paragraph (2), whenever the commissioner has reasonable cause to believe, and determines after a public hearing, that any insurer on the list established pursuant to subdivision (f), (A) is in an unsound financial condition, (B) does not meet the eligibility requirements under subdivisions (a) to (e), inclusive, (C) has violated the laws of this state, or (D) without justification, or with a frequency so as to indicate a general business practice, delays the payment of just claims, the commissioner may

issue an order removing the insurer from the list. Notice of hearing shall be served upon the insurer its agent for service of process stating the time and place of the hearing and the conduct, condition, or ground upon which the commissioner would make his or her order. The hearing shall occur not less than 20 days, nor more than 30 days after notice is served upon the insurer or its agent for service of process.

(2) If the commissioner determines that an insurer's immediate removal from the list is necessary to protect the public or an insured or prospective insured of the insurer, or, in the case of an application by an insurer to be placed on the list which is being denied by the commissioner, the commissioner may issue an order pursuant to paragraph (1) without prior notice and hearing. At the time an order is served pursuant to this paragraph to an insurer on the list, the commissioner shall also issue and serve upon the insurer a statement of the reasons that immediate removal is necessary. Any order issued pursuant to this paragraph shall include a notice stating the time and place of a hearing on the order, which shall be not less than 20 days, nor more than 30 days after the notice is served.

(3) Notwithstanding paragraphs (1) and (2), in any case where the commissioner is basing a decision to remove an insurer from the list, or deny an application to be placed on the list, on the failure of the insurer or applicant to comply with, meet or maintain any of the objective criteria established by this section, or by regulation adopted pursuant to this section, the commissioner may so specify this fact in the order, and no hearing shall be required to be held on the order.

(4) Notwithstanding paragraphs (1) and (2), the commissioner may, without prior notice or hearing, remove from the list established pursuant to subdivision (f) any insurer which has failed or refused to timely provide documents required by this section, or any regulations adopted to implement this section. In the case of removal pursuant to this paragraph, the commissioner shall notify all surplus line brokers and special lines' surplus line brokers of the action.

(h) In addition to any other statements or reports required by this chapter, the commissioner may also address to any licensee a written request for full and complete information respecting the financial stability, reputation and integrity of any nonadmitted insurer with whom such licensee has dealt or proposes to deal in the transaction of insurance business. The licensee so addressed shall promptly furnish in written or printed form so much of the information requested as he or she can produce together with a signed statement identifying the same and giving reasons for omissions, if any. After due examination of the information and accompanying statement, the commissioner may, if he or she believes it to be in the public interest, order the licensee in writing to place no further insurance business on property located or operations conducted within or on the lives of persons who are residents of this state with the

nonadmitted insurer on behalf of any person. Any placement in the nonadmitted insurer made by a licensee after receipt of such order is a violation of this chapter. The commissioner may issue an order when documents submitted pursuant to subdivisions (c) and (d) do not meet the criteria of subdivisions (a) to (e), inclusive, or when the commissioner obtains documents on an insurer and the insurer does not meet the criteria of subdivisions (a) to (e), inclusive.

(i) The commissioner shall require, at least annually, the submission of records and statements as are reasonably necessary to ensure that the requirements of this section are maintained.

(j) The commissioner shall establish by regulation a schedule of fees to cover costs of administering and enforcing this chapter.

(k) (1) Insurance may be placed on a limited basis with insurers not on the list established pursuant to this section if all of the following conditions are met:

(A) The use of multiple insurers is necessary to obtain coverage for 100 percent of the risk.

(B) At least 80 percent of the risk is placed with admitted insurers or insurers that appear on the list of eligible nonadmitted insurers.

(C) The placing surplus line broker submits to the commissioner, or his or her designee, copies of all documentation relied upon by the surplus line broker to make the broker's determination that the financial stability, reputation, and integrity of the unlisted insurer or insurers, are adequate to safeguard the interest of the insured under the policy. This documentation, and any other documentation regarding the unlisted insurer requested by the commissioner, shall be submitted no more than 30 days after the insurance is placed with the unlisted insurer for the initial placement by that broker with the particular unlisted insurer, and annually thereafter for as long as the broker continues to make placements with the unlisted insurer pursuant to this paragraph.

(D) The insured has aggregate annual premiums for all risks other than workers' compensation or health coverage totaling no less than one hundred thousand dollars ($100,000).

(2) Insurance may not be placed pursuant to paragraph (1) if any of the following applies:

(A) The unlisted insurer has for any reason been objected to by the commissioner pursuant to Section 1765.1, removed from the list, or denied placement on the list.

(B) The insurance includes coverage for employer-sponsored medical, surgical, hospital, or other health or medical expense benefits payable to the employee by the insurer.

(C) The insurance is mandatory under the laws of the federal government, this state, or any political subdivision thereof, and includes any portion of limits of coverage mandated by those laws.

(D) The insured is a multiple employer welfare arrangement, as defined in Section 1002(40) (A) of Title 29 of the United States Code, or any other arrangement among two or more employers that are not under common ownership or control, which is established or

maintained for the primary purpose of providing insurance benefits to the employees of two or more employers.

(E) Unlisted insurers represent a disproportionate portion of the lower layers of the coverage.

(3) Nothing in this section is intended to alter any duties of a surplus line broker pursuant to subdivision (b) of Section 1765 or other laws of this state to safeguard the interests of the insured under the policy in recommending or placing insurance with a nonadmitted insurer.

(4) Placements authorized by this subdivision are intended to provide sophisticated insurance purchasers with a means to obtain necessary commercial insurance coverage from nonadmitted insurers not listed by the commissioner in situations where it is not commercially possible to fully obtain that coverage from either admitted or listed insurers. This subdivision shall not be deemed to permit surplus line brokers to place with nonadmitted insurers common commercial or personal line coverages for insureds that can be placed with insurers that are admitted or listed pursuant to this section, whether the insured is an individual insured, or a group created primarily for the purpose of purchasing insurance.

(*l*) As used in this section:

(1) "Certified" means an originally signed or sealed statement, dated not more than 60 days before submission, made by a public official or other person, attached to a copy of a document, that attests that the copy is a true copy of the original, and that the original is in the custody of the person making the statement.

(2) "Domiciliary jurisdiction" means the state, nation, or subdivision thereof under the laws of which an insurer is incorporated or otherwise organized.

(3) "Insurer" means (unless the context indicates otherwise) "nonadmitted" insurers that are either "foreign" or "alien" insurers, as those terms are defined in Sections 25, 27, and 1580. The term "insurer" includes all nonadmitted insurers selling insurance to or through purchasing groups as defined in the Liability Risk Retention Act of 1986 (15 U.S.C. Sec. 3901 et seq.) and the California Risk Retention Act of 1990 (Chapter 1.5 (commencing with Section 125) of Part 1 of Division 1), except insurers that are risk retention groups as defined by those acts.

(4) "ISI" means Insurance Solvency International.

(5) "Licensee" includes both surplus line brokers and special lines' surplus line brokers licensed pursuant to subdivision (b) of Section 1760.5 and Sections 1765, 1765.2, 1765.3, and 1765.4.

(6) "NAIC" means the National Association of Insurance Commissioners or its successor organization.

(7) "NAIIO" means the Nonadmitted Alien Insurer Information Office of the NAIC or its successor office.

(8) "State" means any state of the United States; the District of Columbia; a commonwealth, or a territory.

(9) "Verified" means a document or copy accompanied by an

originally signed statement, dated not more than 60 days before submission, from a responsible executive or official who has authority to provide the statement and knowledge whereof he or she speaks, attesting either under oath before a notary public, or under penalty of perjury under California law, that the assertions made in the document are true.

(m) With respect to a nonadmitted insurer that is listed as an authorized surplus line insurer as of December 31, 1994, pursuant to Sections 2174.1 to 2174.14, inclusive, of Title 10 of the California Code of Regulations, this section shall not be effective until the subsequent expiration of the listing of that insurer. Nothing in the bill that amended this section during the 1994 portion of the 1993–94 Regular Session is intended to repeal or imply there is not authority to adopt, or to have adopted, or to continue in force, any regulation, or part thereof, with respect to surplus line insurance which is not clearly inconsistent with it.

SEC. 5. Section 1766 is added to the Insurance Code, to read:

1766. A payment of premium to a surplus line broker acting for a person other than himself or herself in negotiating, continuing, or renewing any policy of insurance under this chapter shall be deemed to be payment to the insurer, notwithstanding any conditions or stipulations in the policy or contract. Nothing in this section shall be deemed to relieve a surplus line broker or special lines' surplus line broker of any obligation owed to an insured or applicant.

SEC. 6. Section 1769 of the Insurance Code is amended to read:

1769. Whenever required so to do by the commissioner, such surplus line broker shall furnish to the commissioner a list of the admitted insurers from which the entire amount of insurance desired was not obtainable.

SEC. 7. Section 1772 is added to the Insurance Code, to read:

1772. (a) A surplus line insurer may be sued upon any cause of action arising in this state under any surplus line insurance contract made by it, or any evidence of insurance issued or delivered by the surplus line broker, pursuant to the procedure set forth in Sections 1610 to 1620, inclusive. Any policy or evidence of insurance issued by the surplus line insurer or the surplus line broker shall contain a provision stating the substance of this section, and designating the person to whom the commissioner shall mail process.

(b) Every surplus line insurer assuming a surplus line insurance shall be deemed thereby to have subjected itself to this chapter.

(c) The remedies provided by this section shall be in addition to any other methods provided by law for service of process.

SEC. 8. Section 1779 of the Insurance Code is amended to read:

1779. Every insured for whom insurance has been effected with nonadmitted insurers shall, upon request in writing by the commissioner, produce for the commissioner's examination all policies, contracts, and other documents evidencing such insurance, and shall disclose to the commissioner the amount of the gross premiums paid or agreed to be paid for such insurance. For refusal

to obey such request, such insured shall forfeit to the State of California the sum of one thousand dollars ($1,000) for each refusal.

SEC. 9. Section 1780.68 of the Insurance Code is repealed.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 11. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 981

An act to amend Section 68115 of the Government Code, relating to criminal defendants.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 68115 of the Government Code is amended to read:

68115. When war, insurrection, pestilence, or other public calamity, or the danger thereof, or the destruction of or danger to the building appointed for holding the court, renders it necessary, or when a large influx of criminal cases resulting from a large number of arrests within a short period of time threatens the orderly operation of a court within a specified county or judicial district, the presiding judge, or if there is none, the sole judge of the superior, municipal or justice court, may request and the Chair of the Judicial Council may, notwithstanding any other provision of law, by order authorize the court to do one or more of the following:

(a) Hold sessions anywhere within the county.

(b) Transfer civil cases pending in the court to another court in the county which has jurisdiction of the subject matter.

(c) Transfer civil cases pending trial in the court to a court having jurisdiction of the subject matter in an adjacent county. No such transfer shall be made pursuant to this subdivision except with the consent of all parties to the case or upon a showing by a party that

extreme or undue hardship would result unless the case is transferred for trial. Any civil case so transferred shall be integrated into the existing caseload of the court to which it is transferred pursuant to rules to be provided by the Judicial Council.

(d) Suspend subdivisions (d), (e), and (f) of Section 199 of the Code of Civil Procedure relating to competency to act as a juror when such suspension is necessary to obtain a sufficient number of jurors.

(e) After exhausting its own jury panel, draw jurors who reside within the judicial district from the jury panel of the superior court in the county, and thereafter, after exhausting that source, draw jurors from the remainder of the jury panel of the superior court in the county or from jury panels of any other municipal or justice court in the county.

(f) Within the affected county during a state of emergency resulting from a natural or human-made disaster proclaimed by the President of the United States or by the Governor pursuant to Section 8625 of the Government Code, extend the time period provided in Section 825 of the Penal Code within which a defendant charged with a felony offense shall be taken before a magistrate from two days to not more than seven days, with the number of days to be designated by the Chair of the Judicial Council. This authorization shall be effective for 30 days unless it is extended by a new request and a new order.

(g) Extend the time period provided in Section 859b of the Penal Code for the holding of a preliminary examination from 10 days to not more than 15 days.

(h) Extend the time period provided in Section 1382 of the Penal Code within which the trial must be held by not more than 30 days, but the trial of a defendant in custody whose time is so extended shall be given precedence over all other cases.

CHAPTER 982

An act to repeal Section 1315.5 of the Military and Veterans Code, and to amend Sections 10302, 10320, and 10332 of the Public Contract Code, relating to state procurement.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 1315.5 of the Military and Veterans Code is repealed.

SEC. 2. Section 10302 of the Public Contract Code is amended to read:

10302. Except in cases of emergency where immediate purchase

of supplies or equipment without bid is necessary for the protection of the public health, welfare, or safety, whenever the department purchases supplies or equipment in excess of fifteen thousand dollars ($15,000), all vendors who have notified the department in writing they desire to bid on supplies or equipment, and who have been prequalified in accordance with this section, shall be furnished with complete specifications as to the type, quality, quantity, and whenever practicable the date, place, and method of delivery of the equipment or supplies to be purchased. In addition to notifying those persons, the department shall post in a public place a copy of the specifications which shall remain posted until seven days after an award has been made. Whenever a purchase in excess of fifteen thousand dollars ($15,000) is made under this section or Section 10301 without the taking of bids, the department shall report to the State Board of Control the fact of the purchase together with a written statement of the facts requiring the purchase of the supplies or equipment without the taking of bids.

SEC. 3. Section 10320 of the Public Contract Code is amended to read:

10320. The Department of General Services shall annually prepare a purchasing delegation program for district agricultural associations to be administered by the Department of Food and Agriculture and the Department of General Services pursuant to the following criteria:

(a) Purchases shall not exceed fifteen thousand dollars ($15,000).

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

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

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

SEC. 4. Section 10332 of the Public Contract Code is amended to read:

10332. Any state agency that receives delegated authority to purchase materials, supplies, and equipment shall be authorized, at a minimum, to make the following types of purchases:

(a) Purchases not exceeding the dollar value established pursuant to Section 10330.

(b) Purchases in any amount of commodities available under an unexpired statewide or regional commodities contract. Purchases of commodities for which a valid statewide or regional commodities contract is in effect may not be made, without the approval of the office, from a vendor other than the vendor with whom the state has a valid contract.

(c) Purchases in any amount of articles, materials, and supplies that state agencies are required, by Section 2807 of the Penal Code, to purchase from the Prison Industry Authority.

(d) Purchases not exceeding fifteen thousand dollars ($15,000) of materials, supplies, and equipment designated in price schedules that the office has established with vendors. Purchases not exceeding fifteen thousand dollars ($15,000) of materials, supplies, and equipment designated in price schedules may be made from a vendor other than the vendor specified on a price schedule if another vendor offers the same or an equivalent commodity at a price lower than the price established in the price schedule. The agency shall notify the office prior to making the purchase. The purchase may be made 48 hours after receipt of the notice by the office unless the office advises the agency that the commodity to be purchased is not the same or equivalent to a commodity specified on a price schedule.

(e) Purchases not exceeding fifteen thousand dollars ($15,000) of materials, supplies, and equipment which are available from the state warehouses but which the state agency can purchase from another vendor at a price lower than the price charged by the department. The agency shall notify the office prior to making the purchase. The purchase may be made 48 hours after receipt of the notice by the office unless the office advises the agency that the commodity to be purchased is not the same or equivalent to the commodity available from the state warehouses.

CHAPTER 983

An act to add Sections 798.82 and 799.8 to the Civil Code, and to amend Section 53080.4 of the Government Code, relating to mobilehomes.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 798.82 is added to the Civil Code, to read:

798.82. The management, at the time of an application for residency, shall disclose in writing to any person who proposes to purchase or install a manufactured home or mobilehome on a space, on which the construction of the pad or foundation system commenced after September 1, 1986, and no other manufactured home or mobilehome was previously located, installed, or occupied, that the manufactured home or mobilehome may be subject to a school facilities fee under Sections 53080 and 53080.4 of, and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of, the Government Code.

SEC. 2. Section 799.8 is added to the Civil Code, to read:

799.8. The management, at the time of an application for residency, shall disclose in writing to any person who proposes to purchase or install a manufactured home or mobilehome on a space or lot, on which the construction of the pad or foundation system commenced after September 1, 1986, and no other manufactured home or mobilehome was previously located, installed, or occupied, that the manufactured home or mobilehome may be subject to a school facilities fee under Sections 53080 and 53080.4 of, and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of, the Government Code.

SEC. 3. Section 53080.4 of the Government Code is amended to read:

53080.4. (a) Notwithstanding any other provision of law, any fee, charge, dedication, or other form of requirement levied by the governing board of a school district under Section 53080 may apply, as to any manufactured home or mobilehome, only pursuant to compliance with all of the following conditions:

(1) The fee, charge, dedication, or other form of requirement is applied to the initial location, installation, or occupancy of the manufactured home or mobilehome within the school district.

(2) The manufactured home or mobilehome is to be located, installed, or occupied on a space or site on which no other manufactured home or mobilehome was previously located, installed, or occupied.

(3) The manufactured home or mobilehome is to be located, installed, or occupied on a space in a mobilehome park, or on any site or in any development outside a mobilehome park, on which the construction of the pad or foundation system commenced after September 1, 1986.

(b) Compliance on the part of any manufactured home or mobilehome with any fee, charge, dedication, or other form of requirement, as described in subdivision (a), or certification by the appropriate school district of that compliance, shall be required as a condition of the following, as applicable:

(1) The close of escrow, where the manufactured home or mobilehome is to be located, installed, or occupied on a mobilehome park space, or on any site or in any development outside a mobilehome park, as described in subdivision (a), and the sale or transfer of the manufactured home or mobilehome is subject to escrow as provided in Section 18035 or 18035.2 of the Health and Safety Code.

(2) The approval of the manufactured home or mobilehome for occupancy pursuant to Section 18551 or 18613 of the Health and Safety Code, in the event that paragraph (1) does not apply.

(c) No fee or other requirement levied under Section 53080 shall be applied to any of the following:

(1) Any manufactured home or mobilehome located, installed, or occupied on a space in a mobilehome park on or before September 1, 1986, or on any date thereafter, if construction on that space,

pursuant to a building permit, commenced on or before September 1, 1986.

(2) Any manufactured home or mobilehome located, installed, or occupied on any site outside of a mobilehome park on or before September 1, 1986, or on any date thereafter if construction on that site pursuant to a building permit commenced on or before September 1, 1986.

(3) The replacement of or addition to a manufactured home or mobilehome located, installed, or occupied on a space in a mobilehome park, subsequent to the original location, installation, or occupancy of any manufactured home or mobilehome on that space.

(4) The replacement of a manufactured home or mobilehome that was destroyed or damaged by fire or any form of natural disaster.

(5) A manufactured home or mobilehome accessory structure, as defined in Section 18008.5 or 18213 of the Health and Safety Code.

(6) The conversion of a rental mobilehome park to a subdivision, cooperative, or condominium for mobilehomes, or its conversion to any other form of resident ownership of the park, as described in Section 50561 of the Health and Safety Code.

(d) Where any fee or other requirement levied under Section 53080 is required as to any manufactured home or mobilehome that is subsequently replaced by a permanent residential structure constructed on the same lot, the amount of that fee or other requirement shall apply toward the payment of any fee or other requirement under Section 53080 applied to that permanent residential structure.

(e) Notwithstanding any other provision of law, any school district that, on or after January 1, 1987, collected any fee, charge, dedication, or other form of requirement from any manufactured home, mobilehome, mobilehome park, or other development, shall immediately repay the fee, charge, dedication, or other form of requirement to the person or persons who made the payment to the extent the fee, charge, dedication, or other form of requirement collected would not have been authorized under subdivision (a). This subdivision shall not apply, however, to the extent that, pursuant to Section 16 of Article I of the California Constitution, it would impair the obligation of any contract entered into by any school district, on or before the effective date of this section.

(f) For purposes of this section, "manufactured home," "mobilehome," and "mobilehome park" have the meanings set forth in Sections 18007, 18008, and 18214, respectively, of the Health and Safety Code.

(g) (1) Whenever a manufactured home or a mobilehome owned by a person 55 years of age or older who is also a member of a lower income household as defined by Section 50079.5 of the Health and Safety Code, and which has been moved from a mobilehome park space located in one school district, where the mobilehome owner has resided, to a space or lot located in a mobilehome park or a subdivision, cooperative, or condominium for mobilehomes or

manufactured homes located in another school district, is subject to any fee or other requirement under Section 53080, this section, and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7, the district in which the manufactured home or mobilehome has been newly located may waive the fee or other requirement under Section 53080, this section, and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7, or otherwise shall be required to grant the homeowner the necessary approval for occupancy of the home, and permission to pay the amount of the fee or other requirement thereafter, in installments, over a period totaling no less than 36 months. A school district may require that the installments be paid monthly, quarterly, or every six months during the 36-month period, and that the fee be secured as a lien perfected against the mobilehome or manufactured home pursuant to Section 18080.7 of the Health and Safety Code.

(2) Costs of filing the lien and reasonable late charges or interest may be added to the amount of the lien. This subdivision does not apply where a school facilities fee, charge, or other requirement is imposed pursuant to Section 65995.2.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 984

An act to amend Sections 10127.10, 10127.11, 10127.12, 10127.13, and 10506.3 of the Insurance Code, relating to life insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 10127.10 of the Insurance Code is amended to read:

10127.10. (a) Every policy of individual life insurance and every individual annuity contract that is initially delivered or issued for delivery to a senior citizen in this state on and after January 1, 1995,

shall have printed thereon or attached thereto a notice stating that, after receipt of the policy by the owner, the policy may be returned by the owner for cancellation by delivering it or mailing it to the insurer or agent from whom it was purchased. The period of time set forth by the insurer for return of the policy by the insured shall be clearly stated on the notice and this period shall be not less than 30 days. The insured may return the policy to the insurer by mail or otherwise at any time during the period specified in the notice. In the case of individual life insurance policies and individual annuity contracts (other than variable contracts and modified guaranteed contracts), return of the policy during the cancellation period shall have the effect of voiding the policy from the beginning, and the parties shall be in the same position as if no policy had been issued. All premiums paid and any policy fee paid for the policy shall be refunded by the insurer to the owner within 30 days from the date that the insurer is notified that the owner has canceled the policy. In the case of variable annuity contracts, variable life insurance contracts, and modified guaranteed contracts, return of the contract during the cancellation period shall entitle the owner to a refund of account value and any policy fee paid for the policy. The account value and policy fee shall be refunded by the insurer to the owner within 30 days from the date that the insurer is notified that the owner has canceled the policy.

(b) This section applies to all individual policies issued or delivered to senior citizens in this state on or after January 1, 1995. All policies subject to this section which are in effect on January 1, 1994, shall be construed to be in compliance with this section, and any provision in any policy which is in conflict with this section shall be of no force or effect.

(c) Every individual life insurance policy and every individual annuity contract, other than variable contracts and modified guaranteed contracts, subject to this section, that is delivered or issued for delivery in this state shall have the following notice either printed on the cover page or policy jacket in 12-point bold print with one inch of space on all sides or printed on a sticker that is affixed to the cover page or policy jacket:

"IMPORTANT

YOU HAVE PURCHASED A LIFE INSURANCE POLICY OR ANNUITY CONTRACT. CAREFULLY REVIEW IT FOR LIMITATIONS.

THIS POLICY MAY BE RETURNED WITHIN 30 DAYS FROM THE DATE YOU RECEIVED IT FOR A FULL REFUND BY RETURNING IT TO THE INSURANCE COMPANY OR AGENT WHO SOLD YOU THIS POLICY. AFTER 30 DAYS, CANCELLATION MAY RESULT IN A SUBSTANTIAL PENALTY, KNOWN AS A SURRENDER CHARGE."

The phrase "after 30 days, cancellation may result in a substantial penalty, known as a surrender charge" may be deleted if the policy does not contain those charges or penalties.

(d) Every individual variable annuity contract, variable life insurance contract, or modified guaranteed contract subject to this section, that is delivered or issued for delivery in this state, shall have the following notice either printed on the cover page or policy jacket in 12-point bold print with one inch of space on all sides or printed on a sticker that is affixed to the cover page or policy jacket:

"IMPORTANT

YOU HAVE PURCHASED A VARIABLE ANNUITY CONTRACT (VARIABLE LIFE INSURANCE CONTRACT, OR MODIFIED GUARANTEED CONTRACT). CAREFULLY REVIEW IT FOR LIMITATIONS.

THIS POLICY MAY BE RETURNED WITHIN 30 DAYS FROM THE DATE YOU RECEIVED IT FOR A REFUND OF THE POLICY'S ACCOUNT VALUE ON THE DAY THE POLICY IS RECEIVED BY THE INSURANCE COMPANY OR AGENT WHO SOLD YOU THIS POLICY. A RETURN OF THE POLICY AFTER 30 DAYS MAY RESULT IN A SUBSTANTIAL PENALTY, KNOWN AS A SURRENDER CHARGE."

The words "known as a surrender charge" may be deleted if the contract does not contain those charges.

(e) This section does not apply to life insurance policies issued in connection with a credit transaction or issued under a contractual policy-change or conversion privilege provision contained in a policy. Additionally, this section shall not apply to contributory and noncontributory employer group life insurance, contributory and noncontributory employer group annuity contracts, and group term life insurance, with the exception of subdivision (f).

(f) When an insurer, its agent, group master policyowner, or association collects more than one month's premium from a senior citizen at the time of application or at the time of delivery of a group term life insurance policy or certificate, the insurer must provide the senior citizen a prorated refund of the premium if the senior citizen delivers a cancellation request to the insurer during the first 30 days of the policy period.

(g) For purposes of this chapter, a senior citizen means an individual who is 60 years of age or older on the date of purchase of the policy.

SEC. 2. Section 10127.11 of the Insurance Code is amended to read:

10127.11. Every insurer and life agent offering for sale individual life insurance policies or individual annuity contracts that are initially delivered or issued for delivery to senior citizens in this state

on and after January 1, 1995, with the use of nonpreprinted illustrations of nonguaranteed values shall disclose on those illustrations or on an attached cover sheet, in bold or underlined capitalized print, or in the form of a contrasting color sticker, bright highlighter pen, or in any manner that makes it more prominent than the surrounding material, with at least one-half inch space on all four sides, the following statement:

"THIS IS AN ILLUSTRATION ONLY. AN ILLUSTRATION IS NOT INTENDED TO PREDICT ACTUAL PERFORMANCE. INTEREST RATES, DIVIDENDS, OR VALUES THAT ARE SET FORTH IN THE ILLUSTRATION ARE NOT GUARANTEED, EXCEPT FOR THOSE ITEMS CLEARLY LABELED AS GUARANTEED."

All preprinted policy illustrations shall contain this notice in 12-point bold print with at least one-half inch space on all four sides and shall be printed on the illustration form itself. All preprinted illustrations containing nonguaranteed values shall show the columns of guaranteed values in bold print. All other columns used in the illustration shall be in standard print. "Values" as used here includes cash value, surrender value, and death benefit.

SEC. 3. Section 10127.12 of the Insurance Code is amended to read:

10127.12. Whenever an insurer provides an annual statement to a senior citizen policyowner of an individual life insurance policy or an individual annuity contract issued after January 1, 1995, the insurer shall also provide the current accumulation value and the current cash surrender value.

SEC. 4. Section 10127.13 of the Insurance Code is amended to read:

10127.13. All individual life insurance policies and individual annuity contracts for senior citizens that contain a surrender charge period shall either disclose the surrender period and all associated penalties in 12-point bold print on the cover sheet of the policy or disclose the location of the surrender information in bold 12-point print on the cover page of the policy, or printed on a sticker that is affixed to the cover page or to the policy jacket. The notice required by this section may appear on a cover sheet that also contains the disclosure required by subdivision (d) of Section 10127.10.

SEC. 5. Section 10506.3 of the Insurance Code is amended to read:

10506.3. (a) The commissioner shall adopt appropriate administrative regulations governing modified guaranteed annuities. Modified guaranteed annuities shall be subject to Article 3b (commencing with Section 10168) of Chapter 1 of Part 2 of Division 2 with regard to nonforfeiture values computed under the terms of the annuity but excluding from the computation the effect of market-value adjustment factors.

(b) Group annuities exempted under Section 10168 are also exempted from any modified guaranteed annuity regulations.

(c) Subdivision (b) shall be retroactive to January 1, 1987, to the extent the assets underlying such group contracts have not been maintained in a separate account.

(d) The commissioner shall issue a bulletin, on or before July 1, 1987, setting forth conditions under which variable life insurance may be issued, or issued for delivery, in this state as permitted by Chapter 731 of the Statutes of 1984.

Upon issuance of the bulletin, regulations regarding variable life insurance contained in Article 11.1 (commencing with Section 2534) of Title 10 of the California Code of Regulations shall be of no force and effect as long as the bulletin is effective. The bulletin authorized by this section shall have the same force and effect, and may be enforced by the commissioner to the same extent and degree, as the regulations superseded by it until the time that the commissioner may make additional or amended regulations as provided by subdivision (h) of Section 10506.

On or before July 1, 1993, the commissioner may amend the existing bulletin to include reasonable provisions relating to requirements for group variable life insurance. Notwithstanding the foregoing authority to issue a bulletin and prior to its issuance, the commissioner shall approve group master policy forms and certificates and notices related thereto that reasonably comply with the general provisions set forth in Sections 10506 to 10506.2, inclusive, and any other applicable statutes or regulations.

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

Chapter 516 of the Statutes of 1993 enacted insurance provisions providing senior citizens with contractual rights with respect to certain policies. These provisions became effective January 1, 1994. In order to ensure orderly implementation of these provisions, it is necessary that this act take effect immediately.

CHAPTER 985

An act to amend Sections 1726, 1749, and 1750 of, and to add Section 1747.1 to, the Health and Safety Code, relating to hospices.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 1726 of the Health and Safety Code is amended to read:

1726. No private or public organization, including, but not limited to, any partnership, corporation, political subdivision of the state, or other governmental agency within the state, shall provide, or arrange for the provision of, skilled nursing services in the home in this state without first obtaining a home health agency license.

In establishing a system of licensing for home health agencies, it is the purpose of the Legislature to distinguish between the functions of a home health agency and the functions of an employment agency or a licensed nurses' registry pursuant to Title 2.91 (commencing with Section 1812.500) of Part 4 of Division 3 of the Civil Code. It is not the intention of the Legislature to require that an employment agency or a licensed nurses' registry performing its functions as specified in Title 2.91 (commencing with Section 1812.500) of Part 4 of Division 3 of the Civil Code secure a home health agency license, unless it is performing the functions of a home health agency, as defined in this chapter.

It is not the intent of the Legislature to require a hospice to secure a home health agency license.

SEC. 1.5. Section 1747.1 is added to the Health and Safety Code, to read:

1747.1. A hospice program certified in accordance with federal Medicare hospice conditions of participation shall be exempt from subdivision (a) of Section 1747, but shall be subject to Section 1726 unless it elects to apply for hospice licensure. A hospice program that elects to apply for hospice licensure shall thereafter be subject to all the hospice licensure requirements set forth in this chapter.

SEC. 2. Section 1749 of the Health and Safety Code is amended to read:

1749. (a) To qualify for a license under this chapter, an applicant shall satisfy all of the following:

(1) Be of good moral character. If the applicant is a franchise, franchisee, firm, association, organization, partnership, business trust, corporation, company, political subdivision of the state, or governmental agency, the person in charge of the hospice for which the application for a license is made shall be of good moral character.

(2) Demonstrate the ability of the applicant to comply with this chapter and any rules and regulations promulgated under this chapter by the state department.

(3) File a completed application with the state department which was prescribed and furnished pursuant to Section 1748.

(b) In order for a person, political subdivision of the state, or other governmental agency to be licensed as a hospice it shall satisfy the definition of a hospice contained in Section 1746, and also provide, or make provision for, the following basic services:

(1) Skilled nursing services.

(2) Social services/counseling services.

(3) Medical direction.

(4) Bereavement services.

(5) Volunteer services.

(6) Inpatient care arrangements.

(c) The services required to be provided pursuant to subdivision (b) shall be provided in compliance with the "Standards for Quality Hospice Care, 1993," as available from the California State Hospice Association, until the state department adopts regulations establishing alternative standards pursuant to subdivision (d).

(d) The state department may adopt regulations establishing standards for any or all of the services required to be provided under subdivision (b). The regulations of the state department adopted pursuant to this subdivision shall supersede the standards referenced in subdivision (c) to the extent the regulations duplicate or replace those standards.

SEC. 3. Section 1750 of the Health and Safety Code is amended to read:

1750. (a) Each new and renewal application for a license under this chapter shall be accompanied by an annual fee in the amount of six hundred twenty-two dollars ($622), until the department determines a fee level based on the cost of administering this chapter, and that adjusted fee is printed in the Budget Act.

(b) All hospices shall maintain compliance with the licensing requirements. These requirements shall not, however, prohibit the use of alternate concepts, methods, procedures, techniques, space, equipment, personnel qualifications, or the conducting of pilot projects, necessary for program flexibility. Program flexibility shall be carried out with provision for safe and adequate patient care and with prior written approval of the state department. A written request for program flexibility and substantiating evidence supporting the request shall be submitted by the applicant or licensee to the state department. The state department shall approve or deny the request within 60 days of submission. Approval shall be in writing and shall provide for the terms and conditions under which program flexibility is approved. A denial shall be in writing and shall specify the basis therefor. If after investigation the state department determines that a hospice using program flexibility pursuant to this section is operating in a manner contrary to the terms or conditions of the approval for program flexibility, the director shall immediately revoke that approval.

(c) Each hospice shall, on or before March 15 of each year, file with the Office of Statewide Health Planning and Development (OSHPD), upon forms furnished by OSHPD, a verified report for the preceding calendar year upon all matters requested by OSHPD. This report may include, but not be limited to, data pertaining to age of patients, diagnostic categories of patients, and number of visits by service provided.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty

for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 986

An act to amend Sections 6322.1 and 6326 of the Business and Professions Code, and to amend and repeal Section 26863 of the Government Code, relating to civil actions.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 6322.1 of the Business and Professions Code is amended to read:

6322.1. (a) Except in counties containing a population of 4,000,000 and over, the board of supervisors of any county may increase the costs provided in Sections 6321 and 6322 to not more than twenty dollars ($20) for each event therein described whenever it shall determine that the increase is necessary to defray the expenses of the law library. After January 1, 1995, the board of supervisors of the county may increase those costs to an amount over twenty dollars ($20) but in no case may this increase in any year be greater than three dollars ($3) if the board of supervisors excludes the library fee from the definition of the "total filing fee," nor more than five dollars ($5) in any year if the library fee is included in the definition of "total filing fee," under Sections 26820.6 and 72055 of the Government Code.

Until January 1, 1994, the board of supervisors may exclude no more than eight dollars ($8) of the increase in the law library fee over the law library fee that was in effect on January 1, 1990, from the definition of "total fee" under Sections 26820.6 and 72055 of the Government Code.

In no event may the total law library fee in actions and proceedings in which a claim for money damages falls within the monetary jurisdiction of small claims court and is filed by an assignee who is prohibited from filing or maintaining a claim pursuant to Section 116.420 of the Code of Civil Procedure exceed the law library fee in effect on January 1, 1990. To facilitate computation of the correct fee pursuant to this section, the complaint shall contain a declaration under penalty of perjury executed by a party requesting a reduction in fees to the January 1, 1990, level that the case filed qualifies for the lower fee because the claim for money damages will not exceed the monetary jurisdiction of small claims court and is filed by an assignee

of the claim.

(b) In counties containing a population of 4,000,000 and over, the board of law library trustees may increase the costs provided in Sections 6321 and 6322 to not more than ten dollars ($10) for each event therein described whenever it shall determine that the increase is necessary to defray the expenses of the law library. After January 1, 1995, the board of supervisors of the county may increase those costs to an amount over ten dollars ($10) but in no case may this increase in any year be greater than two dollars ($2) if the board of supervisors excludes the library fee from the definition of the "total filing fee," nor more than four dollars ($4) in any year if the library fee is included in the definition of "total filing fee" under Sections 26820.6 and 72055 of the Government Code.

Until January 1, 1994, the board of supervisors may exclude no more than eight dollars ($8) of the increase in the law library fee over the law library fee that was in effect on January 1, 1990, from the definition of "total fee" under Sections 26820.6 and 72055 of the Government Code.

In no event may the total law library fee in actions and proceedings in which a claim for money damages falls within the monetary jurisdiction of small claims court and is filed by an assignee who is prohibited from filing or maintaining a claim pursuant to Section 116.420 of the Code of Civil Procedure exceed the law library fee in effect on January 1, 1990. To facilitate computation of the correct fee pursuant to this section, the complaint shall contain a declaration under penalty of perjury executed by a party requesting a reduction in fees to the January 1, 1990, level that the case filed qualifies for the lower fee because the claim for money damages will not exceed the monetary jurisdiction of small claims court and is filed by an assignee of the claim.

(c) Notwithstanding any other provision of law, any increase or decrease in costs of law library fees in any county shall not be effective until January 1 of the year next following adoption by the board of supervisors or the law library board of trustees of the increase or decrease, except that any fee increase adopted by a board of supervisors in 1990 in accordance with subdivision (a) or (b) may be immediately implemented in accordance with the resolution of the board of supervisors.

SEC. 2. Section 6326 of the Business and Professions Code is amended to read:

6326. A revolving fund of not more than seven thousand five hundred dollars ($7,500) may be established from money in the law library fund, by resolution of the board of law library trustees, for expenditures of not exceeding seven hundred fifty dollars ($750) each for purposes for which the law library fund may lawfully be expended. The board shall prescribe the procedure by which money may be drawn from the revolving fund, the records to be kept, and the manner in which reimbursements shall be made to the revolving fund by demand and order from the law library fund. All or any part

of the money in the revolving fund may be deposited in a commercial account in a bank, subject to payments of not exceeding seven hundred fifty dollars ($750) each by check on the signature of the secretary or any other person or persons designated by the board.

SEC. 3. Section 26863 of the Government Code, as amended by Chapter 784 of the Statutes of 1990, is amended to read:

26863. (a) The board of supervisors of any county may provide for an additional fee of one dollar ($1) for filings in a civil action or proceeding, as specified in Section 68090.7, to defray the cost of automating the county clerk and municipal and justice court recordkeeping system and conversion of the county clerk and municipal and justice court document storage system to micrographics.

(b) The board of supervisors may increase this additional fee to not more than three dollars ($3) if it expends an additional, matching amount from the county general fund, equal to the revenue derived from the increase, exclusively to pay the costs of automating the county clerk and municipal and justice court recordkeeping system or converting the court's document system to micrographics, or both.

(c) Upon completion of the automation and conversion, and payment of the costs therefor, the additional fee shall no longer be imposed.

SEC. 4. Section 26863 of the Government Code, as added by Chapter 784 of the Statutes of 1990, is repealed.

CHAPTER 987

An act to add Section 35 to the Business and Professions Code, to amend Section 2054 of the Unemployment Insurance Code, and to add Section 1651.3 to the Vehicle Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 35 is added to the Business and Professions Code, to read:

35. It is the policy of this state that, consistent with high quality of services, persons with skills, knowledge, and experience obtained in the armed services of the United States should be permitted to apply this learning and contribute to the employment needs of the state at the maximum level of responsibility and skill for which they are qualified. To this end, rules and regulations of boards provided for in this code shall provide for methods of evaluating education, training, and experience obtained in the armed services, if applicable to the requirements of the business, occupation, or profession

regulated. These rules and regulations shall also specify how this education, training, and experience may be used to meet the licensure requirements for the particular business, occupation, or profession regulated. Each board shall consult with the Department of Veterans Affairs before adopting these rules and regulations. Each board shall perform the duties required by this section within existing budgetary resources of the agency within which the board operates.

SEC. 2. Section 2054 of the Unemployment Insurance Code is amended to read:

2054. (a) The director shall:

(1) Establish, maintain, and operate adequately staffed public employment offices for men, women, and youth who are legally qualified to engage in gainful occupations and shall maintain a veterans' placement service to be devoted to securing work for veterans and a farm placement service to promote the placement and clearance of agricultural labor, and a youth placement service to promote the placement of youth in suitable fields of employment. The director shall also establish and maintain a job counseling and placement service for those persons who are encountering, or may be expected to encounter difficulty in securing or keeping a job principally because of their age. The maintenance of a farm placement service shall not be required during such time as applicable federal laws provide for a system of farm labor placement financed from federal funds which is separate and apart from the general system of public employment offices. Adequate records and statistics on all the classifications specified in this subdivision shall be compiled and kept, and a report of these records, statistics, applications, and placements shall be made semiannually.

(2) Procure, by lease or otherwise, suitable offices, and incur the necessary expenses in the conduct thereof.

(b) It is the policy of this state to make every reasonable effort to assist men and women who are leaving active duty with the armed services of the United States in obtaining employment in the civilian workforce. These efforts shall include outreach to those service personnel who will be leaving active duty in the near future, including job seminars and job fairs at military bases.

(c) The director shall perform the duties required by this section within existing budgetary resources of the agency within which the department operates.

SEC. 3. Section 1651.3 is added to the Vehicle Code, to read:

1651.3. It is the policy of this state to recognize the training and experience that individuals gain while serving in the armed forces of the United States. In furtherance of this policy, the department, in conjunction with the military services of the United States, shall develop policies to assist persons who are leaving active duty to obtain commercial driver's licenses. These policies shall not waive any requisites, fees, or examinations required by law for a commercial driver's license. These policies shall specify how this

training and experience may be used to obtain these licenses. The department shall consult with the Department of Veterans Affairs before adopting these policies. The department shall perform the duties required by this section within existing budgetary resources of the agency within which the department operates.

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

In order to expedite the licensing and registration in various occupations or professions of persons who have left the armed services of the United States due to the reduction in the active duty personnel and who have military training and job experience that may be used in related civilian occupations, it is necessary that this act take effect immediately.

CHAPTER 988

An act to add Section 20221.1 to the Public Contract Code, relating to transit, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 20221.1 is added to the Public Contract Code, to read:

20221.1. Notwithstanding any other provision of law, the governing board of the San Francisco Bay Area Rapid Transit District may, at its discretion, elect to design and construct all or any part of the extension of the district's transit facilities to the San Francisco International Airport. If the board elects to design and construct the project, it shall comply with all of the following procurement procedures:

(a) A request for qualifications shall be prepared and submitted to an adequate number of sources, as determined by the district, in its discretion, to permit reasonable competition consistent with the nature and requirements of that portion of the extension the district has elected to design and construct in accordance with this section. In addition, notice of the request for qualifications shall be published at least once in a newspaper of general circulation, which publication shall be at least 10 days before responses to the request for qualifications are received. The request for qualifications shall identify the minimum standards that the district has determined, in its discretion, shall be met or exceeded by a contractor to successfully design and construct the project described in this section. Those

standards may include, but are not limited to, technical experience and capability, financial condition and capacity, organization, and personnel.

(b) All respondents determined by the district to meet or exceed the minimum standards set forth in the request for qualifications shall be considered prequalified. The district may, in its discretion, repeat the prequalification process described in subdivision (a). If the district has prequalified at least three respondents, it may invite those prequalified to submit sealed bids for the project based upon plans and specifications prepared by the district. Only those who have been prequalified are eligible for award of a contract. Award shall be made to the prequalified bidder submitting the lowest responsive bid.

(c) The board may reject any and all bids and request new bids.

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

In order to enable the San Francisco Bay Area Rapid Transit District to undertake the design and construction of its San Francisco Airport extension at the earliest possible time, in accordance with procedures authorized by this act, it is necessary that this act take effect immediately.

CHAPTER 989

An act relating to schools.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) A growing number of violent incidents on public school campuses are severely traumatizing pupils and staff and are seriously hampering the educational process at those schools.

(b) Reports from schools that have experienced these tragedies indicate that the after effects of violent incidents last for extended periods of time and often are exacerbated by additional incidents, including bomb threats or other threats of reprisal which cause both pupils and staff to repeatedly relive the emotional trauma of the original tragedy.

(c) Already overburdened local mental health agencies have a difficult time providing sufficient services to respond to these needs without additional resources.

(d) Given the growing cultural diversity of California's public

school population, it is imperative that services be provided in a culturally appropriate manner. Unfortunately, few mental health professionals have an adequate understanding of the unique way that diverse cultures deal with these life problems.

(e) Therefore, it is the intent of the Legislature to do all of the following, contingent upon available funding:

(1) Establish a supplementary victim assistance fund that mental health agencies may use to provide services to victims of schoolsite tragedies.

(2) Encourage mental health agencies to assess their current level of cultural competence, as defined in Section 5600.2 of the Welfare and Institutions Code.

(3) Commission a pilot project within the Marysville Joint Unified School District to assess both the psychological effects of the Lindhurst High School shootings on all involved parties and to develop recommendations about the most culturally appropriate ways to provide services to victims, because little is known about the long-term effects of these tragedies and about the best ways to deal with them.

(f) It is also the intent of the Legislature that the superintendent assist the Marysville Joint Unified School District in applying for private foundation grants and federal funds to fund the pilot project set forth in paragraph (3) of subdivision (e).

CHAPTER 990

An act to add Section 17921.7 to the Health and Safety Code, relating to buildings.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 17921.7 is added to the Health and Safety Code, to read:

17921.7. (a) (1) The Legislature finds and declares all of the following:

(A) Acrylonitrile-butadiene-styrene ("ABS") drain, waste, and vent plumbing pipe is used to drain or vent wastewater from kitchens, bathrooms, washers, and plumbing fixtures found in the home. ABS pipe is commonly used in residential construction, and ABS pipe has been installed in the foundations and walls of thousands of single-family homes, apartments, condominiums, and other residences throughout California.

(B) The American Society for Testing and Materials (ASTM) has established specifications for the manufacture of ABS pipe, including a requirement that ABS pipe be made from virgin plastic resin.

These specifications have been incorporated into the Uniform Plumbing Code (UPC), which is applicable to all occupancies throughout the state pursuant to subdivision (b) of Section 18938, a provision of the State Building Standards Law (Part 2.5 (commencing with Section 18901)).

(C) ABS pipe that does not meet ASTM requirements might, within a period of a decade or less, crack and leak wastewater and sewage, resulting in structural damage, vermin infestation, and severe health hazards for residents or occupants of buildings in which defectively manufactured ABS pipe has failed. One apparent cause of these mechanical failures of ABS pipe has been the use of nonvirgin, reprocessed plastic resin for the manufacture of ABS pipe.

(D) The continued use of this nonvirgin, reprocessed plastic resin by some ABS pipe manufacturers violates the requirements of the UPC and is also in violation of the building standards established in accordance with the State Building Standards Law. The problem of the property damage inflicted on the public continues to worsen.

(E) Thousands of California residents either already have, or eventually will, experience serious damage to their homes, apartments, and condominiums, as well as threats to their health and safety, because of the substandard ABS pipe that has been installed, in violation of building standards, in structures throughout the state.

(F) There are currently no statutes or regulations that apply to the sale of defective plastic resin to ABS pipe manufacturers.

(2) It is, therefore, the intent of the Legislature that both of the following occur:

(A) That a provision that addresses the important issues set forth in paragraph (1) be added to the State Housing Law.

(B) That the Department of Housing and Community Development expeditiously implement the provisions of Chapter 413 of the Statutes of 1993 that relate to this section.

(b) On and after the effective date of the act that adds this section, no person shall sell or offer for sale a plastic resin for use in the manufacture of ABS DWV pipe that does not meet the requirements of the listing pursuant to authority granted by subdivision (e).

(c) (1) Any and all plastic resin sold to an ABS DWV pipe manufacturer for use in ABS DWV pipe shall contain a certification that the plastic resin conforms to the requirements specified in the listing pursuant to subdivision (e).

(2) Any and all plastic resin sold to an ABS pipe manufacturer shall be accompanied by a document indicating the name and address of the manufacturer of that plastic resin, the date that the plastic resin was purchased by the seller, and specifications of the chemical and physical properties of the plastic resin. For a period of at least 10 years from the date of the sale of this plastic resin, the information required to be certified by this subdivision shall be kept onsite at the ABS pipe manufacturing plant, and available for inspection by the enforcement agency, at all times.

(d) No ABS DWV pipe that contains plastic resin that does not

meet the requirements of the listing pursuant to subdivision (e) may be sold or offered for sale, or installed in any structure that is subject to this part.

(e) The listing agencies, as approved by the department, shall publish in each listing agreement with ABS DWV pipe manufacturers a list of ABS resins and resin compounds used by that manufacturer and approved for use by the listing agency. The approval of ABS resins and resin compounds shall be based on nationally recognized standards. The listing agencies shall consult with the affected parties.

SEC. 2. The Department of Housing and Community Development shall periodically evaluate its list of approved listing and testing agencies to determine whether any additions to, or deletions from, the list are appropriate.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 991

An act to add Section 1235 to the Government Code, relating to public officers.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. The Legislature hereby finds and declares that a condition precedent to any contract for a retirement allowance between the state and a public officer thereof is, and has been, an obligation on the public officer's part not to leave the jurisdiction of a federal or state court when under a legal obligation not to do so.

SEC. 2. Section 1235 is added to the Government Code, to read:

1235. (a) Any person who is receiving an allowance from a public retirement system, who is charged by indictment or complaint, either in a court of this state or a federal court whose jurisdiction encompasses all or any portion of the state, with the commission of any felony involving or accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit

any of those crimes arising directly out of his or her official duties as a public officer, who has a legal obligation not to leave the jurisdiction of the court, but does leave, shall have his or her retirement allowance suspended while absent the jurisdiction of the court.

(b) The suspension shall be effective the first of the month following the month in which the court notifies the retirement system. The suspension shall be in effect until the retirement system is notified by the court. Upon notification by the court that the suspension has been lifted, the retirement system shall commence payment of the retirement allowance payable and make a onetime payment of the amount payable that had been suspended.

(c) "Public officer," for the purposes of this section, means every officer of the state, and every officer of a county, city, city and county, district, and authority, and each department, division, bureau, board, commission, agency, or instrumentality of any of these entities.

(d) The suspension shall not affect the payment of any survivor's benefits by the retirement system.

(e) This section shall apply to persons who served in a public office prior to January 1, 1995, as well as to all persons who serve in a public office on or after January 1, 1995.

SEC. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 992

An act to amend Section 661 of the Insurance Code, relating to insurance.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 661 of the Insurance Code is amended to read:

661. (a) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

(1) Nonpayment of premium.

(2) The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period

or the 180 days immediately preceding its effective date.

(3) Discovery of fraud by the named insured in pursuing a claim under the policy provided the insurer does not rescind the policy.

(4) Discovery of material misrepresentation of any of the following information concerning the named insured or any resident of the same household who customarily operates an automobile insured under the policy:

(A) Safety record.

(B) Annual miles driven in prior years.

(C) Number of years of driving experience.

(D) Record of prior automobile insurance claims, if any.

(E) Any other factor found by the commissioner to have a substantial relationship to the risk of loss.

Any insured who negligently misrepresents information described in this paragraph may avoid cancellation by furnishing corrected information to the insurer within 20 days after receiving notice of cancellation and agreeing to pay any difference in premium for the policy period in which the information remained undisclosed.

(b) This section shall not apply to any policy or coverage that has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars ($100) shall not be deemed a cancellation of the coverage or of the policy.

(d) This section shall not apply to nonrenewal.

CHAPTER 993

An act to amend Section 1250.4 of the Health and Safety Code, to amend Section 6007 of the Penal Code, and to repeal Section 11 of Chapter 932 of the Statutes of 1993, relating to communicable disease, and declaring the urgency thereof to take effect immediately.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 1250.4 of the Health and Safety Code is amended to read:

1250.4. (a) As used in this section:

(1) "Department" means the Department of Corrections or the Department of the Youth Authority.

(2) "Communicable, contagious, or infectious disease" means any disease that is capable of being transmitted from person to person with or without contact and as established by the State Department of Health Services pursuant to Section 3123, and Section 2500 et seq.

of Title 17 of the California Code of Regulations.

(3) "Inmate or ward" means any person incarcerated within the jurisdiction of the Department of Corrections or the Department of the Youth Authority, with the exception of a person on parole.

(4) "Institution" means any state prison, camp, center, office, or other facility under the jurisdiction of the Department of Corrections or the Department of the Youth Authority.

(5) "Medical director," "chief of medical services," or "chief medical officer" means the medical officer, acting medical officer, medical director, or the physician designated by the department to act in that capacity, who is responsible for directing the medical treatment programs and medical services for all health services and services supporting the health services provided in the institution.

(b) Each health care facility in the Department of Corrections and in the Department of the Youth Authority shall have a medical director in charge of the health care services of that facility who shall be a physician and surgeon licensed to practice in California and who shall be appointed by the directors of the departments. The medical director shall direct the medical treatment programs for all health services and services supporting the health services provided in the facility.

(c) The medical director, chief of medical services, chief medical officer, or the physician designated by the department to act in that capacity, shall use every available means to ascertain the existence of, and to immediately investigate, all reported or suspected cases of any communicable, contagious, or infectious disease and to ascertain the source or sources of the infections and prevent the spread of the disease. In carrying out these investigations, the medical director, chief of medical services, chief medical officer , or the physician designated by the department to act in that capacity, is hereby invested with full powers of inspection, examination, and quarantine or isolation of all inmates or wards known to be, or reasonably suspected to be, infected with a communicable, contagious, or infectious disease.

(d) The medical director, chief of medical services, chief medical officer, or the physician designated by the department to act in that capacity, shall order an inmate or ward to receive an examination or test, or may order an inmate or ward to receive treatment if the medical director, chief of medical services, chief medical officer, or the physician designated by the department to act in that capacity, has reasonable suspicion that the inmate or ward has, has had, or has been exposed to a communicable, contagious, or infectious disease and the medical director, chief of medical services, chief medical officer, or the physician designated by the department to act in that capacity, has reasonable grounds to believe that it is necessary for the preservation and protection of staff and inmates or wards.

(e) Notwithstanding Section 2600 or 2601 of the Penal Code, or any other provision of law, any inmate or ward who refuses to submit to an examination, test, or treatment for any communicable,

contagious, or infectious disease or who refuses treatment for any communicable, contagious, or infectious disease, or who, after notice, violates, or refuses or neglects to conform to any rule, order, guideline, or regulation prescribed by the department with regard to communicable disease control shall be tested involuntarily and may be treated involuntarily. This inmate or ward shall be subject to disciplinary action as described in Title 15 of the California Code of Regulations.

(f) None of the provisions contained in this section shall apply to HIV or AIDS. Testing, treatment, counseling, prevention, education, or other procedures dealing with HIV and AIDS shall be conducted as prescribed in Title 8 (commencing with Section 7500) of Part 3 of the Penal Code.

(g) None of the provisions contained in this section shall apply to tuberculosis. Tuberculosis shall be addressed as prescribed in Title 8.7 (commencing with Section 7570) of the Penal Code.

SEC. 2. Section 6007 of the Penal Code is amended to read:

6007. (a) No person shall be employed initially by the department unless that person, after an offer of employment, completes an examination, a test, or a medical evaluation and is found to be free of tuberculosis in an infectious or contagious stage prior to assuming work duties.

(b) As a condition of continued employment with the department, those employees who are skin-test negative shall receive an examination or test at least once a year, or more often if directed by the department, for as long as the employee remains skin-test negative. If an employee has a documented positive skin test, the employee shall have a medical evaluation to determine the need for followup care. An employee with a positive skin test shall follow the department's guidelines for tuberculosis control.

(c) The department shall ensure that all examinations or tests and medical evaluations, as defined in subdivisions (b) and (c) of Section 6006.5, to diagnose and assess the health conditions of the person, meet the following conditions:

(1) Are made available to the employee promptly at a reasonable time and place.

(2) Are made available at no cost to the employee.

(3) Are performed by, or under the supervision of, a licensed health care professional.

(d) The examinations or tests or medical evaluations required pursuant to this chapter shall be offered by the department. The department may contract with a medical provider to administer the examinations or tests or medical evaluations. Employees who elect not to accept the department's offer shall obtain the examinations or tests or medical evaluations through their personal health care providers at no cost to the department.

The requirements of this section apply to the Department of Corrections, the Department of the Youth Authority, the Board of Prison Terms, and the Youthful Offender Parole Board.

Notwithstanding any other provision of law, each department or board shall be responsible for the costs of the testing or evaluation required by this section for its own employees or potential employees.

(e) Followup care for tuberculosis infection or treatment for tuberculosis disease shall be pursued through the workers' compensation system as provided in Division 4 (commencing with Section 3200) and Division 5 (commencing with Section 6300) of the Labor Code for job-related incidents or through the employee's health insurance plan for non-job-related incidents. The department shall file a first report of injury for an employee whose examination or test for tuberculosis is positive. In addition, the department shall follow the guidelines, policies, and procedures of the workers' compensation early intervention program pursuant to Section 3214 of the Labor Code.

(f) Each employee, including employees who are employed initially, shall submit a signed certificate to the department annually that may be reviewed by the chief medical officer of the department.

(g) The department shall maintain a file containing an up-to-date certificate for each employee.

(h) Nothing in this section shall prevent the department from requiring and providing more extensive or more frequent examinations or tests.

(i) The department shall not discriminate against any employee because the employee tested positive for tuberculosis.

(j) All volunteers of the department shall be required to furnish the department with a certificate prior to assuming their volunteer duties and annually thereafter, showing that the volunteer has been examined and found to be free of tuberculosis in an infectious or contagious stage.

(k) The department shall maintain a file containing an up-to-date certificate for each volunteer.

(*l*) Employees from other state agencies, including, but not limited to, the State Department of Mental Health and the Department of Forestry and Fire Protection, who are assigned to work in an institution, as defined in subdivision (h) of Section 6006.5, or who are assigned to work with inmates or wards on a regular basis, as defined in the department's guidelines, shall comply with the following requirements:

(1) Receive an examination or test prior to assuming their duties and at least once a year thereafter, or more often if directed by the department, for as long as the employee remains skin-test negative.

(2) Receive a medical evaluation to determine the need for followup care and follow the department's guidelines for tuberculosis control if an employee has a documented positive skin test.

(3) Submit a signed certificate to the department prior to assuming his or her duties and annually thereafter, showing that the employee has been found to be free of tuberculosis in an infectious

or contagious state.

(4) Pursue followup care for tuberculosis infection or treatment for tuberculosis disease through the appropriate programs in their agency or department.

(m) The department shall offer the examinations, tests, or medical evaluations required pursuant to this chapter to employees of other state agencies or departments and may contract with a medical provider to administer the examinations, tests, or medical evaluations. Employees of other state agencies or departments who elect not to accept the department's offer shall obtain the examinations, tests, or medical evaluations from their personal health care provider at no cost to the department.

(n) The department shall maintain a file containing an up-to-date certificate for each employee from other state agencies who works in an institution.

SEC. 3. Section 11 of Chapter 932 of the Statutes of 1993 is repealed.

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

It is vital to the health and safety of inmates, wards, employees, and the general public to conduct appropriate examination, testing, and treatment to control the spread of communicable diseases in California's correctional system. In order to provide the inmates, wards, employees, and the public with immediate increased protection against the threat of communicable diseases within the state correctional system, it is necessary that this act take effect immediately.

CHAPTER 994

An act to amend Sections 10133.1, 10145, 10232, and 10232.4 of the Business and Professions Code, to amend Section 2955 of the Civil Code, and to add Section 24058 to, and to add Division 20 (commencing with Section 50000) to, the Financial Code, relating to lending.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 10133.1 of the Business and Professions Code is amended to read:

10133.1. (a) Subdivisions (d) and (e) of Section 10131, Section 10131.1, Article 5 (commencing with Section 10230), Article 6 (commencing with Section 10237), and Article 7 (commencing with

Section 10240) and Section 1695.13 of the Civil Code do not apply to any of the following:

(1) Any person or employee thereof doing business under any law of this state, any other state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies.

(2) Any nonprofit cooperative association organized under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, in loaning or advancing money in connection with any activity mentioned therein.

(3) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis, in loaning or advancing money to the members thereof or in connection with any such business.

(4) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of Congress entitled the "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(5) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when that person renders services in the course of his or her practice as an attorney at law, and the disbursements of that person, whether paid by the borrower or other person, are not charges or costs and expenses regulated by or subject to the limitations of Article 7 (commencing with Section 10240), provided, the fees and disbursements shall not be shared, directly or indirectly, with the person negotiating the loan or the lender.

(6) Any person licensed as a personal property broker, a consumer finance lender, or a commercial finance lender when acting under the authority of that license.

(7) Any cemetery authority as defined by Section 7018 of the Health and Safety Code which is authorized to do business in this state or its authorized agent.

(8) Any person authorized in writing by a savings institution to act as an agent of that institution, as authorized by Section 6520 of the Financial Code or comparable authority of the Federal Home Loan Bank Board by its regulations, when acting under the authority of such written authorization.

(9) Any person who is licensed as a securities broker or securities dealer under any law of this state, or of the United States, or any employee, officer, or agent of that person, if that person, employee, officer, or agent is acting within the scope of authority granted by that license in connection with a transaction involving the offer, sale, purchase, or exchange of a security representing an ownership interest in a pool of promissory notes secured directly or indirectly by liens on real property, which transaction is subject to any law of this state or the United States regulating the offer or sale of securities.

(10) Any person licensed as a residential mortgage lender or servicer when acting under the authority of that license.

(b) Persons described in paragraph (1), (2), or (3) are exempt from the provisions of subdivisions (d) and (e) of Section 10131 or Section 10131.1 with respect to the collection of payments or performance of services for lenders or on notes of owners in connection with loans secured directly or collaterally by liens on real property:

(1) The person makes collections on 10 or less of those loans, or in amounts of forty thousand dollars ($40,000) or less in any calendar year.

(2) The person is a corporation licensed as an escrow agent under Division 6 (commencing with Section 17000) of the Financial Code and the payments are deposited and maintained in the escrow agent's trust account.

(3) An employee of a real estate broker who is acting as the agent of a person described in paragraph (4) of subdivision (b) of Section 10232.4.

For purposes of this subdivision, performance of services does not include soliciting borrowers, lenders, or purchasers for, or negotiating, loans secured directly or collaterally by a lien on real property.

SEC. 2. Section 10145 of the Business and Professions Code is amended to read:

10145. (a) (1) A real estate broker who accepts funds belonging to others in connection with any transaction subject to this part shall deposit all such funds which are not immediately placed into a neutral escrow depository or into the hands of the broker's principal, into a trust fund account maintained by the broker in a bank or recognized depository in this state. All funds deposited by the broker in a trust fund account shall be maintained there until disbursed by the broker in accordance with instructions from the person entitled to the funds.

(2) Notwithstanding the provisions of paragraph (1), until January 1, 1996, a real estate broker collecting payments or performing services for investors or note owners in connection with loans secured by a first lien on real property may deposit funds received in trust in an out-of-state depository institution insured by the Federal Deposit Insurance Corporation, if the investor or note owner is any one of the following:

(A) The Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, and the Veteran's Administration.

(B) Any bank or subsidiary thereof, bank holding company or subsidiary thereof, trust company, savings bank or savings and loan association or subsidiary thereof, savings bank or savings association holding company or subsidiary thereof, credit union, industrial bank or industrial loan company, or insurance company doing business

under the authority of, and in accordance with, the laws of this state, any other state, or of the United States relating to banks, trust companies, savings banks or savings associations, credit unions, industrial banks or industrial loan companies, or insurance companies, as evidenced by a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(C) Trustees of a pension, profit-sharing, or welfare fund, if the pension, profit-sharing, or welfare fund has a net worth of not less than fifteen million dollars ($15,000,000).

(D) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation.

(E) Any syndication or other combination of any of the entities specified in subparagraph (A), (B), (C), or (D) which is organized to purchase the promissory note.

(F) The California Housing Finance Agency or any local housing finance agency organized under the Health and Safety Code.

(G) A licensed real estate broker selling all or part of the loan, note, or contract to a lender or purchaser specified in subparagraphs (A) to (F), inclusive, of this subdivision.

(H) A licensed residential mortgage lender or servicer acting under the authority of that license.

(3) Until January 1, 1996, a real estate broker who deposits funds held in trust in an out-of-state depository institution in accordance with the provisions of paragraph (2) shall make available, in this state, the books, records, and files pertaining to such trust accounts to the commissioner or the commissioner's representatives, or pay the reasonable expenses for travel and lodging incurred by the commissioner or the commissioner's representatives in order to conduct an examination at any out-of-state location.

(4) The provisions of paragraphs (2) and (3) shall remain in effect only until January 1, 1996, and as of that date shall be of no force or effect unless a later enacted statute deletes or extends that date.

(b) A real estate broker acting as a principal pursuant to Section 10131.1 or Article 6 (commencing with Section 10237) of this part shall place all funds received from others for the purchase of real property sales contracts or promissory notes secured directly or collaterally by liens on real property in a neutral escrow depository unless delivery of the contract or note is made simultaneously with the receipt of the purchase funds.

(c) A real estate sales person who accepts trust funds from others on behalf of the broker under whom he or she is licensed shall immediately deliver the funds to the broker or, if so directed by the broker, shall place the funds into the hands of the broker's principal, into a neutral escrow depository, or shall deposit the funds into the broker's trust fund account.

(d) If not otherwise expressly prohibited by a provision of this part, a real estate broker may, at the request of the owner of trust

funds or of the principals to a transaction or series of transactions from whom the broker has received trust funds, deposit the funds into an interest-bearing account in a bank, savings and loan association, credit union, or industrial loan company whose accounts are insured by the Federal Deposit Insurance Corporation, if all of the following requirements are met:

(1) The account is in the name of the broker as trustee for the specified beneficiary or specified principal of a transaction or series of transactions.

(2) All of the funds in the account are covered by insurance provided by an agency of the federal government.

(3) The funds in the account are kept separate, distinct, and apart from funds belonging to the broker or to any other person for whom the broker holds funds in trust.

(4) The broker discloses to the person from whom the trust funds are received and to any beneficiary whose identity is known to the broker at the time of establishing the account the nature of the account, how interest will be calculated and paid under various circumstances, whether service charges will be paid to the depository and by whom, and possible notice requirements or penalties for withdrawal of funds from the account.

(5) No interest earned on funds in the account shall inure directly or indirectly to the benefit of the broker nor to any person licensed to the broker.

(6) In an executory sale, lease, or loan transaction in which the broker accepts funds in trust to be applied to the purchase, lease, or loan, the parties to the contract shall have specified in the contract or by collateral written agreement the person to whom interest earned on the funds is to be paid or credited.

(e) The broker shall have no obligation to place trust funds into an interest-bearing account unless requested to do so and unless all of the conditions in subdivision (d) are met; nor, in any event, if he or she advises the party making the request that the funds will not be placed in an interest-bearing account.

(f) Nothing in subdivision (d) shall preclude the commissioner from prescribing by regulation circumstances in which and conditions under which a real estate broker is authorized to deposit funds received in trust into an interest-bearing trust fund account.

(g) The broker shall maintain a separate record of the receipt and disposition of all funds described in subdivisions (a) and (b), including any interest earned on the funds.

(h) Upon request of the commissioner, a broker shall furnish to the commissioner an authorization for examination of financial records of any such trust fund accounts maintained in a financial institution, in accordance with the procedures set forth in Section 7473 of the Government Code.

(i) As used in this section "neutral escrow" means an escrow business conducted by a person licensed under Division 6 (commencing with Section 17000) of the Financial Code or by any

person described in subdivision (a) of Section 17006 and subdivision (c) of Section 17006 of that code.

SEC. 3. Section 10232 of the Business and Professions Code is amended to read:

10232. (a) Except as otherwise expressly provided, the provisions of Sections 10232.1, 10232.2, and 10232.25 are applicable to every real estate broker who intends or reasonably expects in any successive 12 months to do any of the following:

(1) Negotiate any combination of 20 or more of the following transactions pursuant to subdivision (d) or (e) of Section 10131 or Section 10131.1 in an aggregate amount of more than two million dollars ($2,000,000):

(A) Loans secured directly or collaterally by liens on real property or on business opportunities as agent for another or others.

(B) Sales or exchanges of real property sales contracts or promissory notes secured directly or collaterally by liens on real property or on business opportunities as agent for another or others.

(C) Sales or exchanges of real property sales contracts or promissory notes secured directly or collaterally by liens on real property as the owner of such notes or contracts.

(2) Make collections of payments in an aggregate amount of five hundred thousand dollars ($500,000) or more on behalf of owners of promissory notes secured directly or collaterally by liens on real property, owners of real property sales contracts, or both.

(3) Make collections of payments in an aggregate amount of five hundred thousand dollars ($500,000) or more on behalf of obligors of promissory notes secured directly or collaterally by liens on real property, lenders of real property sales contracts, or both.

Persons under common management, direction or control in conducting the activities enumerated above shall be considered as one person for the purpose of applying the above criteria.

(b) The negotiation of any combination of five or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than five hundred thousand dollars ($500,000) in any three successive months or any combination of 10 or more new loans and sales or exchanges of existing promissory notes and real property sales contracts of an aggregate amount of more than one million dollars ($1,000,000) in any successive six months shall create a rebuttable presumption that the broker intends to negotiate new loans and sales and exchanges of an aggregate amount that will meet the criteria of subdivision (a).

(c) In determining the applicability of Section 10232.1, loans or sales negotiated by a broker, or for which a broker collects payments or provides other servicing for the owner of the note or contract, shall not be counted in determining whether the broker meets the criteria of subdivisions (a) and (b) if any of the following apply:

(1) The lender or purchaser is the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the California Housing

Finance Agency, a local housing finance agency organized under the Health and Safety Code, a bank, a bank holding company, a wholly owned subsidiary of a bank holding company, a savings and loan association, a savings and loan association holding company, an industrial loan company, a credit union, an insurance company, or a pension trust.

(2) The loan or sale is negotiated, or the loan or contract is being serviced for the owner, under authority of a permit issued pursuant to Article 6 (commencing with Section 10237) or applicable provisions of the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code).

(d) In determining the applicability of Sections 10232.2 and 10232.25, loans or sales negotiated by a broker, or for which a broker collects payments or provides other servicing for the owner of the note or contract, shall not be counted in determining whether the broker meets the criteria of subdivisions (a) and (b) if any of the following apply:

(1) The lender or purchaser is any of the following:

(A) The Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, and the Veteran's Administration.

(B) Any bank or subsidiary thereof, bank holding company or subsidiary thereof, trust company, savings bank or savings and loan association or subsidiary thereof, savings bank or savings association holding company or subsidiary thereof, credit union, industrial bank or industrial loan company, commercial finance lender, personal property broker, consumer finance lender, or insurance company doing business under the authority of, and in accordance with, the laws of this state, any other state, or of the United States relating to banks, trust companies, savings banks or savings associations, credit unions, industrial banks or industrial loan companies, commercial finance lenders, or insurance companies, as evidenced by a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(C) Trustees of a pension, profit-sharing, or welfare fund, if the pension, profit-sharing, or welfare fund has a net worth of not less than fifteen million dollars ($15,000,000).

(D) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation.

(E) Any syndication or other combination of any of the entities specified in subparagraph (A), (B), (C), or (D) which is organized to purchase the promissory note.

(F) The California Housing Finance Agency or any local housing finance agency organized under the Health and Safety Code.

(G) A licensed real estate broker selling all or part of the loan, the note, or the contract to a lender or purchaser specified in

subparagraphs (A) through (F) of this subdivision.

(H) A licensed residential mortgage lender or servicer acting under the authority of that license.

(2) The loan or sale is negotiated, or the loan or contract is being serviced for the owner, under authority of a permit issued pursuant to the provisions of Article 6 (commencing with Section 10237) or applicable provisions of the Corporate Securities Law of 1968 (Section 25000 and following of the Corporations Code).

(e) If two or more real estate brokers who are not under common management, direction, or control, cooperate in the negotiation of a loan or the sale or exchange of a promissory note or real property sales contract and share in the compensation for their services, the dollar amount of the transaction shall be allocated according to the ratio that the compensation received by each broker bears to the total compensation received by all brokers for their services in negotiating the loan or sale or exchange.

(f) A real estate broker who on the effective date of this section satisfies the criteria of subdivision (a) or (b) shall, within 30 days thereafter, notify the Department of Real Estate in writing of that fact. A broker who first meets any of the criteria of subdivision (a) or (b) after January 1, 1982, shall notify the department in writing within 30 days after such a determination is made.

SEC. 4. Section 10232.4 of the Business and Professions Code is amended to read:

10232.4. (a) In making a solicitation to a particular person and in negotiating with that person to make a loan secured by real property or to purchase a real property sales contract or a note secured by a deed of trust, a real estate broker shall deliver to the person solicited the applicable completed statement described in Section 10232.5 as early as practicable before he or she becomes obligated to make the loan or purchase and, except as provided in subdivision (c), before the receipt by or on behalf of the broker of any funds from that person. The statement shall be signed by the prospective lender or purchaser and by the real estate broker, or by a real estate salesperson licensed to the broker, on the broker's behalf. When so executed, an exact copy shall be given to the prospective lender or purchaser, and the broker shall retain a true copy of the executed statement for a period of four years.

(b) The requirement of delivery of a disclosure statement pursuant to subdivision (a) shall not apply with respect to the following persons:

(1) The prospective purchaser of a security offered under authority of a permit issued pursuant to Article 6 (commencing with Section 10237) of this chapter or applicable provisions of the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) which requires that each prospective purchaser of a security be given a prospectus or other form of disclosure statement approved by the department issuing the permit.

(2) The seller of real property who agrees to take back a promissory note of the purchaser as a method of financing all or a part of the purchase of the property.

(3) The prospective purchaser of a security offered pursuant to and in accordance with a regulation duly adopted by the Commissioner of Corporations granting an exemption from qualification under the Corporate Securities Law of 1968 for the offering if one of the conditions of the exemption is that each prospective purchaser of the security be given a disclosure statement prescribed by the regulation before the prospective purchaser becomes obligated to purchase the security.

(4) A prospective lender or purchaser, if that lender or purchaser is any of the following:

(A) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or corporate or other instrumentality of any one or more of the foregoing, including the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, and the Veteran's Administration.

(B) Any bank or subsidiary thereof, bank holding company or subsidiary thereof, trust company, savings bank or savings and loan association or subsidiary thereof, savings bank or savings association holding company or subsidiary thereof, credit union, industrial bank or industrial loan company, personal property broker, commercial finance lender, consumer finance lender, or insurance company doing business under the authority of, and in accordance with, the laws of this state, any other state, or of the United States relating to banks, trust companies, savings banks or savings associations, credit unions, industrial banks or industrial loan companies, commercial finance lenders, or insurance companies, as evidenced by a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(C) Trustees of pension, profit-sharing, or welfare fund, if the pension, profit-sharing, or welfare fund has a net worth of not less than fifteen million dollars ($15,000,000).

(D) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation.

(E) Any syndication or other combination of any of the entities specified in subparagraph (A), (B), (C), or (D) which is organized to purchase the promissory note.

(F) A licensed real estate broker engaging in the business of selling all or part of the loan, note, or contract to a lender or purchaser to whom no disclosure is required pursuant to this subdivision.

(G) A licensed residential mortgage lender or servicer when acting under the authority of that license.

(c) When the broker has custody of funds of a prospective lender or purchaser which were received and are being maintained with the express permission of the owner and in accordance with law, and the broker retains the funds in an escrow depository or a trust fund account pending receipt of the owner's express written instructions to disburse the funds for a loan or purchase, the broker shall cause the disclosure statement to be delivered to the owner and shall obtain the owner's written consent to the proposed disbursement before making the disbursement. Unless the broker has a written agreement with the owner as provided in Section 10231.1, the broker shall transmit to the owner not later than 60 days after receipt, all funds then in the broker's custody for which the owner has not given written instructions authorizing disbursement.

SEC. 5. Section 2955 of the Civil Code is amended to read:

(a) Money held by a mortgagee or a beneficiary of a deed of trust on real property in this state, or held by a vendor on a contract of sale of real property in this state, in an impound account for the payment of taxes and assessments or insurance premiums or other purposes on or relating to the property, shall be retained in this state and, if invested, shall be invested only with residents of this state in the case of individuals, or with partnerships, corporations, or other persons, or the branches or subsidiaries thereof, that are engaged in business within this state.

(b) Notwithstanding subdivision (a), a licensed residential mortgage lender or servicer, acting under the authority of that license, who is a mortgagee or beneficiary of a deed of trust, secured by a first lien on real property, may deposit money held for the payment of taxes and assessments or insurance premiums or other purposes in an impound account in an out-of-state depository institution insured by the Federal Deposit Insurance Corporation.

(c) The Attorney General may bring an action on behalf of the people of California to enjoin any violation of subdivision (a) or (b).

(d) This section shall become operative on January 1, 1996.

SEC. 6. Section 24058 is added to the Financial Code, to read:

24058. This division does not apply to any loans made or arranged by a licensed residential mortgage lender or servicer when acting under the authority of that license.

SEC. 7. Division 20 (commencing with Section 50000) is added to the Financial Code, to read:

DIVISION 20. CALIFORNIA RESIDENTIAL MORTGAGE LENDING ACT

CHAPTER 1. GENERAL

50000. This division will be known and may be cited as the California Residential Mortgage Lending Act.

50001. Unless the context otherwise requires, the definitions in this chapter apply throughout this division.

50002. (a) No person shall engage in the business of making residential mortgage loans or servicing residential mortgage loans, in this state, without first obtaining a license from the commissioner in accordance with the requirements of Chapter 2 (commencing with Section 50120) or Chapter 3 (commencing with Section 50130), and any rules promulgated by the commissioner under this law, unless a person or transaction is excepted from a definition or exempt from licensure by a provision of this law or a rule of the commissioner.

(b) An employee of a licensee or of a person exempt from licensure is not required to be licensed when acting within the scope of his or her employment and shall be exempt from any other law from which his or her employer is exempt.

50003. (a) "Annual audit" means a certified audit of the licensee's books, records, and systems of internal control performed by an independent certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards.

(b) "Borrower" means the loan applicant.

(c) "Commissioner" means the Commissioner of Corporations.

(d) "Control" means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management and policies of a licensee under this division, whether through voting or through the ownership of voting power of an entity that possesses voting power of the licensee, or otherwise. Control is presumed to exist if a person, directly or indirectly, owns, controls, or holds 10 percent or more of the voting power of a licensee or of an entity that owns, controls, or holds, with power to vote, 10 percent or more of the voting power of a licensee. No person shall be deemed to control a licensee solely by reason of his or her status as an officer or director of the licensee.

(e) "Engage in the business" means the dissemination to the public, or any part of the public, by means of written, printed, or electronic communication or any communication by means of recorded telephone messages or spoken on radio, television, or similar communications media, of any information relating to the making of residential mortgage loans, the servicing of residential mortgage loans, or both. "Engage in the business" also means, without limitation, making residential mortgage loans or servicing residential mortgage loans, or both.

(f) "Exempt person" means any of the following:

(1) Any bank, trust company, or industrial loan company doing business under the authority of or in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(2) A federally chartered savings and loan association, federal savings bank, or federal credit union that is authorized to transact business in this state.

(3) A savings and loan association, savings bank, or credit union organized under the laws of this or any other state that is authorized to transact business in this state.

(4) A person engaged solely in commercial mortgage lending.

(5) A wholly owned service corporation of a savings and loan association or savings bank organized under the laws of this state or the wholly owned service corporation of a federally chartered savings and loan association or savings bank.

(6) Any person making residential mortgage loans with his, her, or its own funds for his, her, or its own investment without intent to resell more than eight residential loans in any one calendar year.

(7) An agency, or other instrumentality of the federal government, or state or municipal government.

(8) An employee or employer pension plan making loans only to its participants.

(9) A person acting in a fiduciary capacity conferred by the authority of a court.

(10) A real estate broker licensed under California law, when making, arranging, selling, or servicing a residential loan.

(11) A consumer finance lender or commercial finance lender licensed under California law, when acting under the authority of that license.

(g) "In this state" means any activity of a person relating to making or servicing a residential mortgage loan that originates from this state and is directed to persons outside this state, or that originates from outside this state and is directed to persons inside this state, or that originates inside this state and is directed to persons inside this state, or that leads to the formation of a contract and the offer or acceptance thereof is directed to a person in this state (whether from inside or outside this state and whether the offer was made inside or outside the state).

(h) "Institutional investor" means the following:

(1) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or other instrumentality of any one or more of the foregoing.

(2) Any bank, trust company, savings bank or savings and loan association, credit union, industrial bank or industrial loan company, personal property broker, consumer finance lender, commercial finance lender, or insurance company doing business under the authority of or in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(3) Trustees of pension, profit-sharing, or welfare funds, if the pension, profit-sharing, or welfare fund has a net worth of not less than fifteen million dollars ($15,000,000), except pension, profit-sharing, or welfare funds of a licensee or its affiliate,

self-employed individual retirement plans, or individual retirement accounts.

(4) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation, provided the purchaser represents that it is purchasing for its own account for investment and not with a view to, or for sale in connection with, any distribution of a promissory note.

(5) Any syndication or other combination of any of the foregoing that is organized to purchase a promissory note.

(6) A person licensed to make residential mortgage loans under this law.

(7) Any person who is licensed as a securities broker or securities dealer under any law of this state, or of the United States, or any employee, officer or agent of that person, if that person is acting within the scope of authority granted by that license in connection with a transaction involving the offer, sale, purchase, or exchange of a security representing an ownership interest in a pool of promissory notes secured directly or indirectly by liens on real property, if the transaction is subject to any law of this state or the United States regulating the offer or sale of securities.

(8) A licensed real estate broker selling the loan to an institutional investor specified in paragraphs (1) to (7), inclusive.

(i) "Institutional lender" means the following:

(1) The United States or any state, district, territory, or commonwealth thereof, or any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state, district, territory, or commonwealth of the United States, or any agency or other instrumentality of any one or more of the foregoing.

(2) Any bank, trust company, savings bank or savings and loan association, credit union, or insurance company doing business under the authority of and in accordance with a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States.

(3) Any corporation with outstanding securities registered under Section 12 of the Securities Exchange Act of 1934 or any wholly owned subsidiary of that corporation.

(4) A person licensed to make residential mortgage loans under this law.

(j) "Law" means the California Residential Mortgage Lending Act.

(k) "Lender" means a person that (1) is an approved lender for the Federal Housing Administration, Veterans Administration, Farmers Home Administration, Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, (2) directly makes residential mortgage loans, and (3) makes the credit decision in the loan transactions.

(*l*) "Licensee" means, depending on the context, a person licensed under either Chapter 2 (commencing with Section 50120) or Chapter 3 (commencing with Section 50130).

(m) "Makes or making residential mortgage loans" or "mortgage lending" means processing, underwriting, or as a lender using or advancing one's own funds, or making a commitment to advance one's own funds, to a loan applicant for a residential mortgage loan.

(n) "Mortgage loan," "residential mortgage loan," or "home mortgage loan" means a federally regulated mortgage loan as defined in Section 3500.2 of Title 24 of the Code of Federal Regulations.

(o) "Mortgage servicer" or "residential mortgage loan servicer" means a person that (1) is an approved servicer for the Federal Housing Administration, Veterans Administration, Farmers Home Administration, Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, and (2) directly services or offers to service mortgage loans.

(p) "Net worth" has the meaning set forth in Section 50201.

(q) "Own funds" means (1) cash, corporate capital, or warehouse credit lines at commercial banks, savings banks, savings and loan associations, or other sources that are liability items on a lender's financial statements, whether secured or unsecured, or (2) a lender's affiliate's cash, corporate capital, or warehouse credit lines at commercial banks or other sources that are liability items on the affiliate's financial statements, whether secured or unsecured. "Own funds" does not include funds provided by a third party to fund a loan on condition that the third party will subsequently purchase or accept an assignment of that loan.

(r) "Person" means a natural person, a sole proprietorship, a corporation, a partnership, a limited liability company, an association, a trust, a joint venture, an unincorporated organization, a joint stock company, a government or a political subdivision of a government, and any other entity.

(s) "Residential real property" or "residential real estate" means real property located in this state that is improved by a one-to-four family dwelling.

(t) "Service" or "servicing" means receiving more than three installment payments of principal, interest, or other amounts placed in escrow, pursuant to the terms of a mortgage loan.

50004. "Fraud," "deceit," and "defraud" are not limited to common law fraud or deceit.

50005. This division creates and authorizes a class of persons pursuant to Section 1 of Article XV of the California Constitution.

50006. No person subject to this law shall use in its name "bank," "trust," "trustee," "loan association," or related terms. This section does not apply to any person licensed under the Banking Law or the Savings Association Law.

CHAPTER 2. LICENSING: RESIDENTIAL MORTGAGE LENDER

50120. (a) A residential mortgage lender shall file an application for licensure under this chapter with the commissioner to make or service residential mortgage loans in this state.

(b) No licensee shall engage in the business as a residential mortgage lender under a name other than the name that appears on the license, or a legally assumed name disclosed either in the application or in an amendment to the application, which shall be reflected on the license.

(c) No licensee shall make or service residential mortgage loans secured by real property pursuant to the authority of a license, or an exemption from licensure, under the Real Estate Law.

(d) No licensee shall conduct the business of making or servicing loans under this division within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction with any other business. The commissioner may exempt a licensee from this provision if the commissioner finds that the character of the other business is such that the granting of the authority would not facilitate evasions of this division or of the rules adopted pursuant to this division. An authorization shall remain in effect until revoked by the commissioner.

(e) A license for a business location outside this state may be issued if the licensee agrees in writing, and subject to the sole discretion of the commissioner, to either (1) make the licensee's books, accounts, papers, records, and files available to the commissioner or the commissioner's representatives in this state within 10 calendar days of any request from the commissioner or, (2) pay the reasonable expenses for travel, meals, and lodging of the commissioner or the commissioner's representatives incurred during any investigation or examination made at the licensee's location outside this state.

50121. The commissioner shall issue a license upon the satisfaction of all of the following:

(a) The filing with the commissioner of a complete and verified application for licensure.

(b) The filing as an exhibit to the application of a listing of material judgments filed against, and bankruptcy petitions filed by, the applicant for the preceding five years, and the disposition thereof.

(c) The payment of a nonrefundable investigation fee of one hundred dollars ($100), plus the cost of fingerprint processing and clearance, and an application filing fee of nine hundred dollars ($900).

(d) An investigation of the statements required by Section 50124 based upon which the commissioner is able to issue findings that the financial responsibility, criminal records (verified by fingerprint, at the discretion of the commissioner), experience, character, and

general fitness of the applicant and of the partners or members thereof, if the applicant is a partnership or association, and of the principal officers and directors thereof, if the license applicant is a corporation, support a finding that the business will be operated honestly, fairly, and in accordance with the requirements of this division.

50122. (a) The application for a residential mortgage lender license shall be in writing, executed under penalty of perjury, and verified on a form prescribed by the commissioner. If an applicant proposes to engage in business as a residential mortgage loan servicer as well as a residential mortgage lender, this information shall be set forth in the application. The commissioner may issue a license under this chapter to engage in business as a residential mortgage lender or to engage in business as a residential mortgage lender and residential mortgage loan servicer. A person filing an application under this chapter to engage in business as a residential mortgage lender and a residential mortgage loan servicer is not required to file an application under Chapter 3 (commencing with Section 50130) of this division.

(b) The application shall contain the name and complete business and residential address or addresses of the applicant. If the applicant is a partnership, association, corporation, or other entity, the application shall contain the names and complete business and residential addresses of each member, director, and principal officer thereof. The application also shall include a description of the activities of the applicant in the detail and for the periods that the commissioner may require, including all of the following:

(1) A statement of financial solvency, noting the net worth requirements and supported by an audited financial statement prepared by an independent certified public accountant, and access to the supporting credit information as required by this division.

(2) A statement that the applicant or its members, directors, or principals, as appropriate, are at least 18 years of age.

(3) Information as to the character, fitness, financial and business responsibility, background, experience, and criminal convictions of any of the following:

(A) Any person that owns or controls, directly or indirectly, 10 percent or more of any class of stock of the applicant.

(B) Any person that controls, directly or indirectly, the election of 25 percent or more of the members of the board of directors of a applicant.

(C) Any person or entity that significantly influences or controls the management of the applicant.

(4) A description of any disciplinary action filed under any other license through which the person conducts its business.

(5) A description of any adverse judgments entered in court actions filed by borrowers based upon allegations of fraud, misrepresentation, or dishonesty in the conduct of the person's business.

(6) Other information as required by rule of the commissioner.

50123. (a) A license shall remain in effect until suspended, surrendered, or revoked.

(b) A licensee that ceases to engage in the business regulated by this division and desires to no longer be licensed shall inform the commissioner in writing and, at that time, surrender the license and all other indicia of licensure to the commissioner. The licensee shall file a plan for the withdrawal from regulated business, including a timetable for the disposition of the business and a closing audit performed by an independent certified public accountant. Upon receipt of the written notice and plan, the commissioner shall review the plan and, if satisfactory to the commissioner, shall accept the surrender of the license. A license is not surrendered until its tender is accepted in writing by the commissioner after a review, and a finding has been made on the licensee's plan required to be filed by this section, and a determination has been made that there is no violation of this law.

(c) A licensee may not surrender its license under this division and, under the authority of a real estate license, subsequently engage in residential mortgage lending or servicing activities that are subject to this division, unless the licensee has been licensed under this division for a period of five years or more.

50124. (a) A license application must be accompanied by an exhibit containing statements that the applicant agrees to do the following:

(1) To maintain staff adequate to meet the requirements of this division, as prescribed by rule or order of the commissioner.

(2) To keep and maintain for 60 months the business records and other information required by law or rules of the commissioner regarding any mortgage loan made or serviced in the course of the conduct of its business.

(3) To file with the commissioner any report required under law or by rule or order of the commissioner.

(4) To disburse funds in accordance with its agreements and to make a good faith and reasonable effort to effect closing in a timely manner.

(5) To account or deliver to a person any personal property such as money, funds, deposit, check, draft, mortgage, other document, or thing of value, that has come into its possession and is not its property, or that it is not in law or equity entitled to retain under the circumstances, at the time that has been agreed upon or is required by law, or, in the absence of a fixed time, upon demand of the person entitled to the accounting or delivery.

(6) To file with the commissioner an amendment to its application prior to any material change in the information contained in the application for licensure, including, without limitation, the plan of operation, or a proposal to open a branch office in this state or to change the business location or locations of the applicant or the branch offices of the applicant from which activities subject to this

division are conducted. The commissioner shall, within 20 business days of receiving a completed amendment to the application, or within a longer time if agreed to by the licensee, issue an order approving or disapproving the effectiveness of the proposed amendment.

(7) To comply with the provisions of this division, and with any order or rule of the commissioner.

(8) To submit to periodic examination by the commissioner as required by this division.

(9) To advise the commissioner by amendment to its application of any material judgment filed against, or bankruptcy petition filed by, the licensee within five days of the filing.

(b) The exhibit also shall contain a space for the applicant to attest that the applicant:

(1) Has complied with all applicable state and federal tax return filing requirements for the past three years or has filed with the commissioner an accountant's or attorney's statement as to why no return was filed.

(2) Has not committed a crime against the laws of any state or the United States, involving moral turpitude, misrepresentation, fraudulent or dishonest dealing, or fraud, and has disclosed to the commissioner any final judgment entered against it in a civil action upon grounds or allegations of fraud, misrepresentation, or deceit.

(3) Has not engaged in conduct that would be cause for denial of a license.

(4) Is not insolvent.

(5) Has acted with due care and competence in performing any act for which it is required to hold a license under this division.

(6) Any other matter as required by rule of the commissioner.

50125. The commissioner may refuse to issue a license if any of the following apply:

(a) The applicant is not in material compliance with a provision of this division or an order or rule of the commissioner.

(b) The commissioner cannot make the findings specified in subdivision (d) of Section 50121.

(c) A material requirement for issuance of a license has not been met.

50126. (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny an application for any of the following reasons:

(1) A false statement of a material fact has been made in the application.

(2) Any officer, director, general partner, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has, within the last 10 years, (A) been convicted of, or pleaded nolo contendere to, a crime or (B) committed any act involving dishonesty, fraud, or deceit, if the crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance

with this division.

(3) The applicant or any officer, director, general partner, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant, has violated any provision of this division or the rules thereunder or any similar regulatory scheme of a foreign jurisdiction.

(b) The application shall be considered withdrawn within the meaning of this section if the applicant fails to respond to a written notification of a deficiency in the application within 90 days of the date of the notification.

(c) The commissioner shall, within 60 days from the filing of a full and complete application for a license, including the receipt of background and investigative reports from the Department of Justice or other government agencies, and the payment of the fees required by Section 50121, issue either a license or a statement of issues prepared in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

50127. The proceedings for a denial of a license shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner has all the powers granted therein.

CHAPTER 3. LICENSING: RESIDENTIAL MORTGAGE LOAN SERVICER

50130. (a) A mortgage servicer shall file an application for licensure under this chapter with the commissioner to service mortgage loans in this state by satisfying the requirements of this chapter and the applicable provisions, as determined by the commissioner, of Chapter 2 (commencing with Section 50120).

(b) A mortgage servicer may apply for licensure by doing all of the following:

(1) Filing with the commissioner an application containing the information required by Section 50122, and any additional information the commissioner may require by rule.

(2) Paying the investigation and application fees required by Section 50121.

(3) Submitting the statements required by Section 50124.

(4) Complying with the applicable provisions of Chapter 2 (commencing with Section 50120).

(c) No licensee shall make or service loans secured by real property pursuant to the authority of a license, or exemption from licensure, under the Real Estate Law.

(d) No licensee shall conduct the business of making or servicing loans under this division within any office, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction with any other business. The commissioner may exempt a licensee from this provision if the

commissioner finds that the character of the other business is such that the granting of the authority would not facilitate evasions of this division or of the rules adopted pursuant to this division. An authorization shall remain in effect until revoked by the commissioner.

(e) A license for a business location outside this state may be issued if the licensee agrees in writing, and subject to the sole discretion of the commissioner, to either (1) make the licensee's books, accounts, papers, records, and files available to the commissioner or the commissioner's representatives in this state within 10 calendar days of any request from the commissioner or, (2) pay the reasonable expenses for travel, meals, and lodging of the commissioner or the commissioner's representatives incurred during any investigation or examination made at the licensee's location outside this state.

(f) The commissioner shall license a mortgage servicer upon completion of the investigation and issuance of the findings required by Section 50121, subject to Sections 50123, 50125, 50126, and 50127.

(g) A mortgage servicer licensed to service mortgage loans shall comply with all applicable requirements of California and federal law, including the Civil Code and Section 2609 of the Real Estate Settlement Procedures Act of 1974, as amended (12 U.S.C.A. Sec. 2601 et seq.).

(h) A license shall remain in effect until suspended, surrendered, or revoked.

CHAPTER 4. FINANCIAL CONDITION, TRANSACTION AND BOND REQUIREMENTS

50200. (a) At the end of the licensee's fiscal year, but in no case more than 12 months after the last audit conducted pursuant to this section, each residential mortgage licensee shall cause its books and accounts to be audited by an independent certified public accountant. Beginning with all audits of business conducted after December 31, 1995, the audit shall be sufficiently comprehensive in scope to permit the expression of an opinion on the financial statements prepared in accordance with generally accepted accounting principles and shall be performed in accordance with generally accepted auditing standards. The audit shall include a reconciliation of the licensee's trust accounts as of the audit date.

(b) "Expression of an opinion" includes (1) an unqualified opinion, (2) a qualified opinion, (3) a disclaimer of opinion, or (4) an adverse opinion. If a financial statement, report, certificate, or opinion of the independent certified public accountant is in any way qualified, the commissioner may require the licensee to take any action that the commissioner deems appropriate to address the qualification. The commissioner may reject any financial statement, report, certificate, or opinion by notifying the licensee or other person required to make the filing of the rejection and the reason

therefor. Within 30 days after the receipt of the notice, the licensee or other person shall correct the deficiencies. Failure to correct the deficiencies is a violation of this division. The commissioner shall retain a copy of all financial statements, reports, certificates, or opinions so rejected.

(c) If a qualified or adverse opinion is expressed or if an opinion is disclaimed, the reasons therefor must be fully explained.

(d) The audit report shall be filed with the commissioner within 105 days of the end of the licensee's fiscal year. The report filed with the commissioner shall be certified by the certified public accountant conducting the audit. The commissioner may promulgate rules regarding late audit reports.

(e) If a licensee required to make an audit fails to cause an audit to be made, the commissioner may cause the audit to be made by an independent certified public accountant at the licensee's expense. The commissioner shall select the independent certified public accountant by advertising for bids or by other fair and impartial means that the commissioner establishes by rule. The commissioner may summarily revoke the license of a licensee who fails to file a certified financial statement prepared by an independent certified public accountant as required by this division or at the request of the commissioner.

(f) Audits conducted in accordance with the uniform single audit procedures of the United States Department of Housing and Urban Development may be submitted in fulfillment of the requirements of this section.

50201. (a) A licensee issued a license for purposes of making or servicing residential mortgage loans shall maintain a minimum tangible net worth at all times of two hundred fifty thousand dollars ($250,000).

(b) Tangible net worth shall be computed in accordance with generally accepted accounting principles.

50202. (a) Escrow funds for a purpose authorized by the residential mortgage loan contract (1) shall be subject to and satisfy all applicable state and federal requirements, including Section 2609 of the Real Estate Settlement Procedures Act of 1974, as amended (12 U.S.C.A. Sec. 2601 et seq.) and all applicable provisions of the Civil Code, (2) shall be maintained in a depository institution as described in subdivision (b), and (3) may not be commingled with a licensee's funds.

(b) Each trust account shall be placed in a non-interest-bearing account in a federally insured depository institution, a federal home loan bank, a federal reserve bank, or other similar government-sponsored enterprise, to be removed and used only for the following:

(1) Payments authorized by the borrower, allowed by the mortgage loan contract, or required by federal or state law.

(2) Refunds to the borrower.

(3) Transfer to another institution that is described in this

subdivision (b).

(4) Forwarding to the appropriate servicer in case of a transfer of servicing.

(5) Any other purpose authorized by the residential mortgage loan contract.

(6) Compliance with a regulatory or court order.

(c) As used in this section, "trust funds" means funds collected by a licensee in connection with the making or servicing of a residential mortgage loan that the licensee holds on behalf of another.

(d) Notwithstanding any other provision of law, but subject to the limitations of Section 854, benefits accruing from the placement in a non-interest bearing account of a commercial bank (including a national banking association) of funds received by a licensee who services mortgage loans under this law, shall inure to the licensee, unless otherwise agreed in writing by the licensee and the investor on whose behalf the licensee services the loan. A borrower shall receive at least 2 percent simple interest per annum on impound account payments covered by Section 2954.8 of the Civil Code.

(e) Trust funds are not subject to the enforcement of a money judgment arising out of any claim against the licensee or person acting as the servicing agent, and in no instance shall the trust funds be considered or treated as an asset of the licensee or person performing the functions of a residential mortgage lender or loan servicer.

50203. (a) A licensee may not require a borrower to pay fees or charges prior to the residential mortgage loan closing, except for:

(1) Actual charges to be incurred by the licensee on behalf of the borrower for services from third parties necessary to process the application, such as credit reports, appraisals, flood certification, and tax service, and in transactions where these services are provided by the licensee, a charge not to exceed the prevailing market rate for the service.

(2) An application fee.

(3) A rate-lock fee, provided:

(A) There is a written agreement signed by the borrower and licensee.

(B) The terms of the agreement include, but are not limited to:

(i) The expiration date of the rate-lock fee agreement.

(ii) The principal amount of the mortgage loan, the term of the mortgage loan, and identification of the property.

(iii) The initial interest rate and the discount (points) to be paid.

(iv) The amount and payment term of the rate-lock fee along with a statement disclosing whether the fee is refundable and the terms and conditions necessary to obtain a refund.

(C) The licensee demonstrates to the commissioner that it is able to perform under the terms of the agreement.

(4) A commitment fee, upon approval of the residential mortgage loan application, provided:

(A) The commitment is in writing and signed by the licensee and

the borrower.

(B) The commitment contains all of the following information:

(i) The terms and conditions of the residential mortgage loan.

(ii) The terms and conditions of the commitment, including, but not limited to, all of the following:

(I) The time period during which the commitment is irrevocable and may be accepted by the borrower, which may not be less than three calendar days from the date of commitment or the date of mailing, whichever is later.

(II) The amount and payment terms of the commitment fee, along with a statement disclosing whether the fee is refundable and the terms and conditions necessary to obtain a refund.

(III) The expiration date of the commitment.

(IV) Conditions precedent to closing.

(b) If the licensee has performed its obligations under the law related to the transaction, fees or charges collected pursuant to this section, other than those collected pursuant to paragraphs (1) and (2) of subdivision (a), shall be refunded if a valid commitment or closing, respectively, does not occur, except that the licensee may retain appropriate fees upon the licensee's demonstration to the commissioner that any of the following occurred:

(1) The borrower withdrew the loan application.

(2) The borrower made a material misrepresentation or omission on the loan application.

(3) The borrower failed, after written request, to provide documentation necessary to the processing or closing of the loan application.

(4) The closing did not occur through any fault of the lender.

50204. A licensee may not do any of the following:

(a) Knowingly provide or offer to provide for a borrower, mortgage lending services under an arrangement with an entity other than a licensee or an exempt person or entity.

(b) Disburse the mortgage loan proceeds in any form other than direct deposit to the borrower's or borrower's designee's account, wire, bank or certified check, ACH funds transfer, or attorney's check drawn on a trust account. An entity may apply to the commissioner for a waiver of the requirements of this subdivision by demonstrating, in a letter application, that it has adopted or will adopt another method of disbursement of loan proceeds that will satisfy the purposes of this subdivision.

(c) Fail to disburse funds in accordance with a commitment to make a mortgage loan that is accepted by the applicant.

(d) Accept fees at closing that are not disclosed to the borrower on the federal HUD-1 Settlement Statement.

(e) Commit any act in violation of Section 2941 of the Civil Code.

(f) Obtain or induce an agreement or other instrument in which blanks are left to be filled in after execution.

(g) Intentionally delay closing of a mortgage loan for the sole purpose of increasing interest, costs, fees, or charges payable by the

borrower.

(h) Engage in fraudulent home mortgage underwriting practices.

(i) Make payment of any kind, whether directly or indirectly, to an in-house or fee appraiser of a government or private money lending agency, with which an application for a home mortgage has been filed, for the purpose of influencing the independent judgment of the appraiser with respect to the value of real estate that is to be covered by the home mortgage.

(j) Engage in any acts in violation of Section 17200 or 17500 of the Business and Professions Code.

(k) Knowingly misrepresent, circumvent, or conceal, through subterfuge or device, any material aspect or information regarding a transaction to which it is a party.

(*l*) Do any act, whether of the same or a different character than specified in this section, that constitutes fraud or dishonest dealings.

(m) Sell more than eight loans in any calendar year made under the authority of this license to a person who is not an institutional investor.

(n) Commit any act in violation of Section 1695.13 of the Civil Code.

(o) Make or service a loan that is not a residential mortgage loan under the authority of the license.

50205. (a) A licensee shall maintain a surety bond in accordance with this subdivision. The bond shall be used for the recovery of expenses, fines, and fees levied by the commissioner in accordance with this division or for losses or damages incurred by borrowers or consumers as the result of a licensee's noncompliance with the requirements of this division. The bond shall be payable when the licensee fails to comply with a provision of this division and shall be in an amount of one hundred thousand dollars ($100,000). The bond shall be payable to the commissioner and issued by an insurance company authorized to do business in this state. A copy of the bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be filed with the commissioner for review and approval prior to execution and filed with the commissioner within 10 days of its execution.

(b) When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond. Immediately upon the recovery of any action on the bond, the licensee shall file a new bond. Failure to file a new bond within 10 days of the recovery on a bond, or within 10 days after notification by the commissioner that a new bond is required, constitutes sufficient grounds for the suspension or revocation of the license.

50206. (a) Prior to a change of control of the business of a licensee, the person wishing to acquire control shall submit a written application to the commissioner and pay an investigation fee of one hundred dollars ($100). The application shall contain the information that the commissioner, by rule, may prescribe as necessary to determine that the person meets the requirements of

Section 50121.

(b) The commissioner shall approve or disapprove the proposed change of control of a licensee in accordance with the provisions of Section 50126.

(c) Upon notification by the commissioner that the change of control has been disapproved, the acquiring party shall immediately cease any activity subject to regulation under this division.

50207. (a) A license, along with any currently effective order of the commissioner approving use of a different name pursuant to Sections 50120 and 50130, shall be conspicuously posted in the place of business authorized by the license.

(b) A license is not transferable or assignable. A license issued to a partnership or a limited partnership is not transferred or assigned within the meaning of this section by the death, withdrawal, or admission of a partner, general partner, or limited partner, unless the death, withdrawal, or admission dissolves the partnership to which the license was issued.

50208. The license shall state the name of the licensee. If the licensee is a partnership, the license shall state the names of its general partners. If the licensee is a corporation or an association, the license shall state the date and place of the corporation's incorporation or organization and the address of the licensee's principal business location. The license shall state whether the licensee is licensed as a residential mortgage loan lender or servicer.

CHAPTER 5. ADMINISTRATION AND POWERS OF THE COMMISSIONER

50301. Without limitation, the functions, powers, and duties of the commissioner include the following:

(a) To issue or refuse to issue a license as provided by this division.

(b) To revoke or suspend for cause any license as provided by this division.

(c) To keep records of licenses issued under this division.

(d) To receive, consider, investigate, and act upon complaints made in connection with a licensee.

(e) To prescribe the forms of and receive (1) applications for licenses and (2) reports and books and records required to be made by a licensee under this division, including annual audited financial statements.

(f) To subpoena documents and witnesses and compel their attendance and production, to administer oaths, and to require the production of books, papers, or other materials relevant to any inquiry authorized by this division.

(g) To require information with regard to a license applicant that the commissioner may deem necessary, with regard for the paramount public interest in ascertaining the experience, background, honesty, truthfulness, integrity, and competency of the license applicant for financial transactions involving primary or

subordinate mortgage financing, and if the license applicant is an entity other than an individual, in ascertaining the honesty, truthfulness, integrity, and competency of an officer or director of the corporation, association, or other entity, or the members of a partnership.

(h) To enforce by order any provision of this division.

(i) To levy fees, fines, and charges in an amount sufficient to cover the cost of the services performed in administering this division, as set forth by rule.

(j) To appoint examiners, supervisors, experts, and special assistants as needed to effectively and efficiently administer this division.

50302. (a) Commencing June 30, 1996, and as often as the commissioner deems necessary and appropriate, but at least once every 24 months, the commissioner shall examine the affairs of each licensee for compliance with this division. The commissioner may, as the commissioner deems necessary and appropriate, conduct an examination of the affairs of a licensee prior to June 30, 1996. The commissioner shall appoint suitable persons to perform the examination. The commissioner and his or her appointees may examine the books, records, and documents of the licensee, and may examine the licensee's officers, directors, employees, or agents under oath regarding the licensee's operations. The commissioner may cooperate with any agency of the state or federal government, other states, agencies, the federal national mortgage association, or the federal home loan mortgage corporation. The commissioner may accept an examination conducted by one of these entities in place of an examination by the commissioner under this law, unless the commissioner determines that the examination does not provide information necessary to enable the commissioner to fulfill his or her responsibilities under this division.

(b) The commissioner shall provide a written statement of the findings of the examination, issue a copy of that statement to each licensee's principals, officers, or directors, and take appropriate steps to ensure correction of any violations of this division.

(c) Affiliates of a licensee are subject to examination by the commissioner on the same terms as the licensee, but only when reports from, or examination of, a licensee provides documented evidence of unlawful activity between a licensee and affiliate benefiting, affecting, or arising from the activities regulated by this division.

(d) The licensee shall pay, and the commissioner shall assess, the reasonable expenses of a nonroutine regulatory examination of the licensee and affiliates.

(e) The statement of the findings of an examination shall belong to the commissioner and shall not be disclosed to anyone other than the licensee, law enforcement officials, or other state or federal regulatory agencies for further investigation and enforcement. Reports required of licensees by the commissioner under this

division and results of examinations performed by the commissioner under this division are the property of the commissioner.

50303. Neither the commissioner nor any employee of the Department of Corporations shall be precluded from obtaining a residential mortgage loan from a lender licensed under this division, subject to the rules that may be adopted hereunder or pursuant to other proper authority.

50304. The commissioner may, from time to time, make, amend, and rescind the rules, forms, and orders that are necessary to carry out the provisions of this law, including rules and forms governing applications and reports, and defining any terms, whether or not used in this law, provided that the definitions are consistent with the provisions of this law. For the purposes of rules and forms, the commissioner may classify loans, persons, and matters within the jurisdiction of the commissioner, and may prescribe different requirements for different classes. The commissioner may, in his or her discretion, waive a requirement of a rule or form if, in the opinion of the commissioner, the requirement is not in the public interest or necessary for the protection of borrowers or investors.

50305. Upon written request from the commissioner, a licensee shall forward authorization to release workpapers of the licensee's independent auditor to the commissioner within two business days of receiving the request.

50306. The commissioner may order a licensee that opens a branch office in this state or changes its business location or its locations from which activities subject to this law are conducted, without first obtaining the approval of the commissioner, to forfeit to the people of the state up to one hundred dollars ($100) each day for the first 10 days and ten dollars ($10) for each day thereafter during which the branch office or changed location is maintained without authority.

50307. (a) Each licensee shall file a report with the commissioner annually, on or before the first day of March, giving the relevant information that the commissioner reasonably requires to make the calculation required by subdivision (a) of Section 50401. The report shall be made under oath and in the form prescribed by the commissioner.

(b) A licensee shall make any other special reports to the commissioner that the commissioner may, from time to time, require.

(c) If any person subject to this division fails to make a report required by law or by the commissioner, the commissioner may immediately cause the books, records, papers, and affairs of that person to be thoroughly examined.

50308. If any person engaged in the business regulated by this division refers in any advertising to rates of interest, charges, or costs of loans, the commissioner shall require that they are stated fully and clearly in the manner that he or she deems necessary to give adequate information to prospective borrowers. If the rates or costs

advertised do not apply to loans of all classes made or negotiated by that person, this fact shall be clearly indicated in the advertisement. Compliance with the requirements of the federal Truth in Lending Act and Regulation Z promulgated thereunder is presumed to satisfy the requirements of this section.

50309. The commissioner may require licensees to maintain a file of all advertising copy for a period of 90 days from the date of its use. The file shall be available to the commissioner upon request.

50310. Nothing in this law shall preclude a person whose license has been suspended or revoked, summarily or otherwise, from continuing to service residential mortgage loans pursuant to servicing contracts in existence at the time of the suspension for a reasonable transition period, as determined by the commissioner, after the date of the entry of the final decision in the case suspending or revoking the license.

50311. Nothing in this law shall preclude a person whose license has been suspended or revoked, summarily or otherwise, from making a residential mortgage loan pursuant to a commitment issued by that person prior to the suspension or revocation. A prospective borrower who received a commitment issued by a person whose license has been suspended or revoked may, prior to the closing of the loan, terminate the commitment and receive a refund of all money paid to that person.

50312. The commissioner, in his or her discretion, may honor requests from interested persons for interpretive opinions.

50313. In any proceeding under this law, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

50314. (a) Every person subject to this division shall keep documents and records that will properly enable the commissioner to determine whether the residential mortgage lending or residential mortgage loan servicing functions performed by that person comply with the provisions of this division and with all rules and orders made by the commissioner under this division. Upon request of the commissioner, residential mortgage lenders and residential mortgage loan servicers shall file an authorization for disclosure to the commissioner of financial records of the licensed business pursuant to Section 7473 of the Government Code.

(b) The business documents and records of every residential mortgage lender or residential mortgage loan servicer, whether required to be licensed under this division or not, are subject to inspection and examination by the commissioner at any time without prior notice. The provisions of this subdivision shall not apply to persons specified in subdivision (f) of Section 50003.

Any person subject to this division shall, upon request and within the time specified in the request, allow inspection and copying of any documents and records by the commissioner or his or her authorized representative.

(c) The cost of every nonroutine inspection and examination of a

licensee or other person subject to this division shall be paid to the commissioner by the licensee or person examined, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost of a nonroutine inspection or examination, the commissioner may use the estimated average hourly cost, including overhead, for all persons performing inspections or examinations of licensees or other persons subject to this division for the fiscal year.

For the purpose of this subdivision only, no person other than a licensee shall be deemed to be a person subject to this division unless and until the person is determined to be a person subject to this division by an administrative hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, or by a judicial hearing in any court of competent jurisdiction.

(d) Investigation and examination reports prepared by the commissioner's duly designated representatives are not public reports. Those reports may be disclosed to the officers or directors of a licensee that is the subject of the report for the purpose of corrective action by the officers or directors. Such a disclosure shall not operate as a waiver of the exemption specified in subdivision (d) of Section 6254 of the Government Code.

50315. (a) The commissioner may refer the evidence that is available concerning any violation of this law or of any rule or order adopted under this division to the district attorney of the county in which the violation occurred. The district attorney may, with or without the commissioner's referral, institute criminal proceedings under this law. The commissioner and his or her counsel, deputies, or assistants may, upon request of the district attorney, assist the district attorney in presenting the law or facts at the trial.

(b) After an examination, investigation, or hearing under this division, if the commissioner deems it of public interest or advantage, he or she may certify a record to the proper prosecuting official of the county or city in which the act complained of, examined, or investigated occurred.

50316. (a) For any licensee, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any action substantially related to the activity regulated under this law may be a ground for disciplinary action by the commissioner. A certified copy of the record of the disciplinary action taken against a licensee by another state, any agency of the federal government, or another country shall be conclusive evidence of the events related therein.

(b) Nothing in this section shall preclude the commissioner from applying a specific statutory provision in this division providing for discipline against a licensee as a result of disciplinary action taken against a licensee by another state, an agency of the federal government, or another country.

50317. (a) Any person who has been convicted of, or pleaded

nolo contendere to any crime specified in subdivision (b) within the past 10 years or has been held liable in any civil action by final judgment or any administrative judgment by any public agency within the past seven years, of any of the provisions specified in subdivision (b), shall not serve as an officer, director, partner, shareholder controlling 10 percent or more of the ownership interests, trustee, or employee of a residential mortgage lender or residential mortgage loan servicer. This subdivision shall not apply to any person whose office, employment, ownership interest, or other participation in the business of a licensed residential mortgage lender or residential mortgage loan servicer commenced prior to January 1, 1995, or whose criminal conviction, plea, or judgment occurred prior to January 1, 1995.

(b) Subdivision (a) applies to criminal convictions of, pleas of nolo contendere to, or civil or administrative judgments entered for offenses including the following:

(1) Offenses specified in Chapter 18 (commencing with Section 3350) of Division 1.

(2) Offenses specified in Article 4 (commencing with Section 5300) of Chapter 1 of Division 2.

(3) Offenses specified in Article 8 (commencing with Section 14750) of Chapter 4 of Division 5.

(4) Offenses specified in Chapter 7 (commencing with Section 17700) of Division 6.

(5) Offenses specified in Chapter 6 (commencing with Section 18435) of Division 7.

(6) Offenses specified in provisions of the laws of the United States added or amended by the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (Public Law 101-73).

(7) Offenses involving robbery, burglary, theft, embezzlement, fraud, fraudulent conversion or misappropriation of property, forgery, bookmaking, receiving stolen property, counterfeiting, extortion, checks, credit cards, or computer violations specified in Section 502 of the Penal Code. For the purpose of this section, but not Section 50318, an offense does not include a conviction for which the person has obtained a certificate of rehabilitation from a court of competent jurisdiction under Section 1203.4 or 4852.13 of the Penal Code or a similar certificate of rehabilitation obtained in a foreign jurisdiction.

(c) On and after January 1, 1995, any officer, director, or other person who seeks a controlling ownership interest of 10 percent or more in the business of a licensed residential mortgage lender or residential mortgage loan servicer shall, as a condition to obtaining that interest or participation, authorize the commissioner to have access to that person's state summary criminal history information, as defined in Section 11105 of the Penal Code, for purposes of determining whether the person has a prior conviction of, or pleaded nolo contendere to, a criminal offense specified in subdivision (b).

(d) Any state summary criminal history information obtained pursuant to this section shall be kept confidential and no recipient shall disclose the contents other than for the purpose of acquisition of an ownership interest in or other participation in the business of a licensed residential mortgage lender or residential mortgage loan servicer.

(e) Any person who knowingly violates subdivision (a), including, but not limited to, any residential mortgage lender or residential mortgage loan servicer who permits an ownership interest in or other participation in the business of a residential mortgage lender or residential mortgage loan servicer in violation of subdivision (a) shall, upon conviction, be subject to punishment as set forth in Section 50500.

(f) Nothing in this section shall be construed to permit the reinstatement of any person barred by the commissioner pursuant to Section 50320 nor to prohibit the commissioner from bringing any action pursuant to Section 50320.

(g) If any provision of this section or the application of this section to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(h) For purposes of this section, the term "employee" means (1) a loan officer or other individual who negotiates agreements with the public, or (2) an individual with access to or responsibility for trust funds held by the licensee.

50318. (a) The commissioner may, after appropriate notice and opportunity for hearing, by order censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control any residential mortgage lender or residential mortgage loan servicer, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, and (A) the violation was either known or should have been known by the person committing or causing it, or (B) the violation has caused material damage to the residential mortgage lender, residential mortgage loan servicer, or to the public.

(2) That the person (A) has been convicted of or pleaded nolo contendere to any crime, or (B) has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense specified in subdivision (b) of Section 50317, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a

hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code). Upon receiving a request, the matter shall be set for hearing to commence within 30 days after receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of the notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure under the law.

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensed residential mortgage lender or residential mortgage loan servicer and from engaging in any business activity on the premises where a licensed residential mortgage lender or residential mortgage loan servicer is conducting its business. This subdivision shall not be construed to prohibit suspended or barred persons from having their personal transactions processed by a licensed residential mortgage lender or residential mortgage loan servicer.

(e) This section shall apply to any violation, conviction, plea, or judgment after the enactment of this section.

(f) If any provision of this section or the application of this section to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(g) For purposes of this section, the term "employee" means (1) a loan officer or other individual who negotiates agreements with the public, or (2) an individual with access to or responsibility for trust funds held by the licensee.

50319. (a) If the commissioner, as a result of any examination or from any report made to him or her, shall find that any person subject to this division is in an insolvent condition, is conducting business in an unsafe or injurious manner that renders further operations hazardous to the public or to customers, has failed to comply with the provision of Section 50317, has permitted its tangible net worth to be lower than the minimum required by law, or has failed to comply with the bonding requirements of Section 50205, the commissioner may, by an order addressed to and served by registered or certified mail, or by personal service on that person, and on any other person having in his or her possession or control any trust funds or other property deposited in escrow with that person, direct discontinuance of the disbursement, in whole or in part, of trust funds held by the licensee and order the establishment of a separate trust account for all subsequent trust funds received by the licensee. No person having in his or her possession any of these funds or documents shall be liable for failure to comply with the order

unless he or she has received written notice of the order. Subject to subdivision (b), the order shall remain in effect until set aside by the commissioner, or the person has been adjudged bankrupt.

(b) Within 15 days from the date of an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 2 of Division 3 of Title 2 of the Government Code). Upon receiving a request, the matter shall be set for hearing to commence within 30 days after the receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of the notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing. Neither the request for a hearing nor the hearing itself shall stay the order issued by the commissioner under subdivision (a).

50320. Whenever, in the opinion of the commissioner, any person, is engaged, either actually or through subterfuge, in the business of making residential mortgage loans or servicing residential mortgage loans without a license from the commissioner, the commissioner may order that person to desist. If, within 30 days after an order is served, a request for a hearing is filed in writing and the hearing is not held within 60 days of the filing, the order is rescinded. This section does not apply to persons exempted under subdivision (f) of Section 50003.

50321. If, after investigation, the commissioner has reasonable grounds to believe that any licensee has violated its articles of incorporation or any law or rule binding upon it, the commissioner shall, by written order addressed to the licensee, direct the discontinuance of the violation. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 50323.

50322. If, after investigation, the commissioner has reasonable grounds to believe that any licensee is conducting business in an unsafe or injurious manner, the commissioner shall, by written order addressed to the licensee, direct the discontinuance of the unsafe or injurious practices. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 50323.

50323. (a) No order issued pursuant to Section 50321 or 50322 may become final except after notice to the affected licensee of the commissioner's intention to make the order final and of the reasons for the finding. The commissioner shall also notify the licensee that upon receiving a request the matter will be set for hearing to commence within 15 business days after receipt. The licensee may consent to have the hearing commence at a later date. If no hearing is requested within 30 days after the mailing or service of the required notice, and none is ordered by the commissioner, the order may become final without hearing and the licensee shall immediately discontinue the practices named in the order. If a

hearing is requested or ordered, it shall be held in accordance with the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of the powers granted under that act. If, upon the hearing, it appears to the commissioner that the licensee is conducting business in an unsafe and injurious manner or is violating its articles of incorporation or any law of this state, or any rule binding upon it, the commissioner shall make the order of discontinuance final and the licensee shall immediately discontinue the practices named in the order.

(b) The licensee has 10 days after an order is made final to commence an action to restrain enforcement of the order. If the enforcement of the order is not enjoined within 10 days by the court in which the action is brought, the licensee shall comply with the order.

50324. (a) If, after investigation, the commissioner has reasonable grounds to believe that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this division or any rule or order hereunder, the commissioner may, bring an action to enjoin the acts or practices or to enforce compliance with this law or any rule or order hereunder. The action shall be brought in the name of the people of the State of California in the superior court. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted. A receiver, monitor, conservator, or other designated fiduciary or officer of the court, which may include the commissioner, may be appointed for the defendant or the defendant's assets. Any other ancillary relief may be granted as appropriate.

A receiver, monitor, conservator, or other designated fiduciary or officer of the court appointed by the superior court pursuant to this section may, with the approval of the court, exercise any or all of the powers of the defendant's officers, directors, partners, trustees, or persons who exercise similar powers and perform similar duties. The powers include the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner, or a receiver, monitor, conservator, or other designated fiduciary or officer of the court, by reason of their exercising these powers or performing these duties pursuant to the order of, or with the approval of, the superior court.

(b) If the commissioner determines it is in the public interest, the commissioner may include in any action authorized by subdivision (a) a claim for ancillary relief. The ancillary relief may include, but not be limited to, restitution or disgorgement or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action. The court shall have jurisdiction to award additional relief.

50325. The commissioner may immediately revoke the residential mortgage lender's or residential mortgage loan servicer's

license if the licensee fails to comply with any order issued under Section 50318, 50319, 50321, 50322 or 50503. The commissioner shall not revoke the license if, within 10 days from the effective date of the revocation order, the licensee secures a court order restraining the enforcement of the commissioner's order.

50326. If any licensee fails to do any of the following, the licensee shall forfeit to the people of the state a sum of up to one hundred dollars ($100) for every day up to the 10th day: (a) to make any report required by law or by the commissioner within 10 days from the day designated for the making of the report, or within any extension of time granted by the commissioner, or (b) fails to include therein any matter required by law or by the commissioner. Thereafter, any failure shall constitute grounds for the suspension or revocation of the license held by the residential mortgage lender or residential mortgage loan servicer.

50327. (a) The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if the commissioner finds that: (1) the licensee has violated any provision of this division or any rule or order of the commissioner thereunder; or (2) any fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.

(b) The power of investigation and examination by the commissioner is not terminated by the surrender, suspension, or revocation of any license issued by him or her.

50328. Except in the case of an exempt person, whenever the commissioner deems it to be necessary for the public interest, the commissioner has continuous authority to exercise the powers set forth in this division. These powers may be exercised whether or not an application for a license has been filed with the commissioner, any license has been issued, or if issued, has been surrendered, suspended, or revoked.

50329. (a) In making an investigation or examination authorized by this division, the commissioner may, for a reasonable time not exceeding 30 days, control access to any documents and records of the licensee pertaining to the business of any residential mortgage lender or residential mortgage loan servicer. The commissioner may place a keeper in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no director, officer, partner, or employee shall remove or attempt to remove any of the documents except pursuant to a court order or with the consent of the commissioner. However, the directors, officers, partners, and employees of the residential mortgage lender or residential mortgage loan servicer may examine the documents or records. The licensee's employees shall be permitted to make entries in the documents or records to reflect current transactions. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being altered

or destroyed for purposes of concealing a violation of this division, the licensee shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(b) For the purpose of any investigation, examination, or proceeding under this division, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any documents or records that the commissioner deems relevant.

(c) In case of refusal to obey a subpoena issued to a director, officer, partner, or employee of a licensee, the superior court may issue an order requiring that person to appear before the commissioner. When before the commissioner, the director, officer, partner, or employee shall produce documentary evidence or give evidence on the matter under investigation. Failure to obey the order of the court may be punished by the court as contempt.

(d) No person is excused from testifying or from producing any document or record before the commissioner, on the ground that the testimony or evidence required by the commissioner may tend to incriminate the person or subject him or her to a penalty or forfeiture. However, no individual may be penalized for any matter concerning which he or she is compelled to testify or produce evidence, after validly claiming the privilege against self-incrimination. However, individual testimony is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

50330. The authority to make or conduct any examination or investigation may be delegated by the commissioner to any deputy, investigator, examiner, or auditor appointed for that purpose. An individual appointed by the commissioner for this purpose may administer oaths and subpoena witnesses, and take their testimony. The appointment shall be made by an instrument in writing signed by the commissioner. Upon any examination or investigation, the instrument shall be produced by the appointed individual at any time upon demand.

50331. All hearings provided for in this division shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The commissioner has all the powers granted therein.

50332. Every order, decision, license, or other official act of the commissioner is subject to review, in accordance with law.

CHAPTER 6. ASSESSMENTS

50400. The commissioner has the authority to levy assessments for the support of this part as provided for in this chapter.

50401. (a) In addition to other fees and reimbursements required to be paid under this division, each licensee shall pay to the

commissioner an amount equal to the greater of: (1) its pro rata share of all costs and expenses (including routine regulatory examinations, overhead, and the maintenance of a prudent reserve of at least 90 days' costs and expenses) that the commissioner reasonably expects to incur in the next fiscal year in the administration of this division and not otherwise recovered by the commissioner under this division or from the State Corporations Fund, plus any deficit or less any surplus actually incurred during the current fiscal year; or (2) five hundred dollars ($500). The pro rata share shall be the sum of: (A) a number derived from the ratio of the aggregate principal amount of the mortgage loans secured by residential real property originated by the licensee to all mortgage loans secured by residential real property originated by all licensees under this division, as shown by the annual financial reports to the commissioner, which number is then multiplied by one-half of the costs and expenses estimated by the commissioner for the next fiscal year; plus (B) a number derived from the ratio of the average value of mortgage loans secured by residential real property serviced by a licensee to the average value of all mortgage loans secured by residential real property serviced by all licensees under this division, as shown by the annual financial reports to the commissioner, which number is then multiplied by one-half of the costs and expenses estimated by the commissioner for the next fiscal year. For the purposes of this section, the "principal amount" of a mortgage loan means the initial total amount a borrower is obligated to repay the lender and the "average value" of loans serviced means the sum of the aggregate dollar value of all mortgage loans secured by residential real property serviced by a licensee, calculated as of the last day of each month in the calendar year just ended, divided by 12.

In order for the commissioner to calculate the assessment under this section, each licensee shall file an annual report for the calendar year just ended containing the information required by the commissioner on or before March 1 of the year in which the assessment is to be calculated.

The assessment shall be fixed by the commissioner by notice to all licensees on or before May 30 of each year, commencing with the assessment for the 1996–97 fiscal year.

In determining the amount assessed, the commissioner shall consider all appropriations from the State Corporations Fund for the support of this division and all reimbursements provided for under this division.

(b) In no case shall the reimbursement, payment, or other fee authorized by this section exceed the cost, including overhead, reasonably incurred in the administration of this division, and the maintenance of a prudent reserve of 90 days' costs and expenses.

(c) Notwithstanding subdivisions (a) and (b), the commissioner is authorized to levy a special assessment for the period of July 1, 1995, through June 30, 1996, to pay the costs and expenses, including overhead, and to provide a prudent reserve of 90 days' costs and

expenses, reasonably estimated by the commissioner to be incurred during the period of July 1, 1995, through June 30, 1996, as follows:

(1) The special assessment shall be calculated pursuant to the provisions of subdivision (a) of this section, based on the information filed by the licensee with the notice of intent to file an application described below.

(2) An applicant filing an application for licensure as a residential mortgage lender or for licensure as a residential mortgage loan servicer during the month of September 1995 shall have paid the application filing fee required by subdivision (c) of Section 50121 in the case of a residential mortgage lender, or the application filing fee required by paragraph (2) of subdivision (b) of Section 50130 in the case of a residential mortgage loan servicer at the time of filing the application, and shall have paid the special assessment calculated under this subdivision at the time the application is filed. These moneys shall be deposited into the State Corporations Fund. If the commissioner denies an application for licensure filed during the month of September 1995, the applicant is entitled to receive a ratable return on a monthly basis of the special assessment paid, commencing with the month after the month in which the application was denied. The commissioner shall pay the ratable return of the special assessment on the first business day of the next fiscal year.

An applicant who files a notice of intention to file an application for licensure as a residential mortgage lender or residential mortgage loan servicer, or filing an application for licensure as a residential mortgage lender or residential mortgage loan servicer, after September 30, 1995, and on or before June 30, 1996, shall comply with the provisions of paragraph (1), and shall be subject to the provisions of paragraph (2), of subdivision (c) of this section. However, an application for licensure as a residential mortgage lender or residential mortgage loan servicer filed after September 30, 1995, and on or before June 30, 1996, shall be processed on a first-filed, first-processed basis after all applications filed during the month of September 1995 have been processed.

A residential mortgage loan servicer shall not file an application for licensure during the month of September 1995, unless the residential mortgage loan servicer files with the Commissioner of Corporations, on or before March 1, 1995, a notice of intention to file an application as a residential mortgage servicer, accompanied by the application filing fee, and an annual unaudited financial report for calendar year 1994 meeting the requirements of Section 50401.

(d) Commencing in 1996, on or before the 30th day of May in each year, the commissioner shall notify each licensee by mail of the amount assessed and levied against it and that amount shall be paid within 20 days. If payment is not made within 20 days, the commissioner shall assess and collect a penalty, in addition to the assessment of 1 percent of the assessment for each month or part of a month that the payment is delayed or withheld.

(e) If a licensee fails to pay the assessment on or before the 30th day of June following the day upon which payment is due, the commissioner may by order summarily suspend or revoke the license issued to the licensee. An order issued under this section is not stayed by the filing of a request for a hearing. If, after an order is made, the request for hearing is filed in writing within 15 days from the date of service of the order and a hearing is not held within 60 days of the filing, the order is deemed rescinded as of its effective date. During any period when its license is revoked or suspended, a licensee shall not conduct business pursuant to this division except as may be permitted by further order of the commissioner. However, the revocation, suspension, or surrender of a license shall not affect the powers of the commissioner as provided in this division.

50402. Notwithstanding subdivision (a) of Section 50401, if the commissioner determines that the charges and assessments set forth in this division for any year are in excess of the amount necessary, or are insufficient, to meet the expenses of administration of this division for that year, the assessments and charges for the following year shall be adjusted on a pro rata basis in accordance with the percentage of the excess or insufficiency as related to the actual charges and assessments for the year for which the excess or insufficiency occurred, in order to recover the actual costs of administration and provide a prudent reserve of 90 days' costs and expenses.

CHAPTER 7. PROHIBITED PRACTICES AND PENALTIES

50500. Any person who willfully violates any provision of this division, or any rule or order under this division, shall, upon conviction, be subject to a fine of not more than ten thousand dollars ($10,000) or imprisonment in the state prison or in a county jail for not more than one year, or to both that fine and imprisonment. No person may be imprisoned for the violation of any rule or order unless he or she had knowledge of the rule or order. Conviction under this section shall not preclude the commissioner from exercising the authority provided in Section 50320.

50501. (a) Any person who violates a provision of this division, or any rule or order under this division, shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation. This penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the commissioner in any court of competent jurisdiction.

(b) As applied to the penalties for acts in violation of this division, the remedies provided by this section and by other sections of this division are not exclusive, and may be sought and employed in any combination to enforce the provisions of this division.

50502. It is a violation of this division for any person to make any untrue statement of a material fact in any document filed with the commissioner under this division or rules adopted thereunder, or to

omit any material fact which is required to be stated in any document.

50503. (a) It is a violation for any person subject to this law or any director, partner, shareholder controlling an ownership interest of 10 percent or more, trustee, officer, agent, or employee of any such person to do any of the following:

(1) Knowingly or recklessly disburse or cause the disbursal of trust funds, except as permitted by Section 50202, or knowingly or recklessly to direct, participate in, or aid or abet in a material way, any activity that constitutes theft or fraud in connection with any trust fund transaction.

(2) Knowingly or recklessly make or cause to be made any misstatement or omission of a material fact, pertaining to a loan or loan servicing.

(b) Any director, officer, partner, shareholder controlling an ownership interest of 10 percent or more, trustee, or employee of a residential mortgage loan servicer who abstracts or misappropriates money, funds, trust obligations, or property deposited with a licensee, commits a violation of this section. If a violation results in a criminal conviction, the court shall, in addition to any other punishment imposed, order the person to make full restitution. Nothing in this section shall be deemed or construed to repeal, amend, or impair any existing provision of law prescribing a punishment for such an offense.

50504. (a) If any amount other than or in excess of the charges permitted by this division is willfully charged, contracted for, or received, the contract of loan is void, and no person has any right to collect or receive any principal, charges, or recompense in connection with the transaction.

(b) If any provision of this division is willfully violated in the making or collection of a loan, the contract of loan is void, and no person has any right to collect or receive any principal, charges, or recompense in connection with the transaction.

50505. Any person who violates any provision of the federal Real Estate Settlement Procedures Act, as amended (12 U.S.C.A. Sec. 2601 et seq.), or any regulation promulgated thereunder, violates this division.

50506. Any director, officer, partner, trustee, or employee of a licensee, its holding company, or its affiliates who knowingly receives or appropriates any of the licensee's property, other than in payment of a just demand or with intent to defraud, or who omits to make or causes an omission to be made in the full and true entry thereof in its books and accounts or concurs in omitting to make any material entry thereof, violates this division.

50507. Any director, officer, partner, trustee, or employee of a licensee, its holding company, or its affiliates who knowingly makes or concurs in making or publishing any false entry in its books or records, any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement which is

false, or having the custody of its books, willfully refuses or neglects to make any proper entry in the books as required by law or to allow the books to be inspected by the commissioner or his or her deputies or investigators, violates this division.

50508. Any director, officer, partner, trustee, or employee of a licensee, its holding company, or its affiliates who makes a false entry in any book or record of the business, or in connection with any transaction of the business, with intent to deceive any officer, director, or employee thereof, or any agent or examiner, employed or lawfully appointed to examine into its condition or any of its affairs or transactions, or to any public officer who has authority to examine into its affairs or transactions, or who, with like intent, omits to make a new entry of any matter particularly pertaining to the business property condition, or transactions of the entity in any document of the licensee, or who, with like intent, makes unavailable any document of the licensee made, written, or kept, or required to be made, written, or kept by him or her under his or her direction, violates this division.

50509. Any officer, director, partner, trustee, or employee of any entity who abstracts or misapplies any of the money, funds, or property of a licensee, or misapplies its credit, or abstracts or misapplies money, funds, trust obligations, or property deposited with a licensee, violates this division. If a violation results in a criminal conviction, the court shall, in addition to any other punishment imposed, order the person to make full restitution to the licensee. Nothing in this section shall be deemed or construed to repeal, amend, or impair any existing provision of law prescribing a punishment for such an offense.

50510. Nothing in this chapter shall be construed to authorize a criminal prosecution for a violation of a civil statute incorporated by reference into this division. Civil monetary penalties and fines shall not be imposed under this law for a violation of subdivision (e) or (j) of Section 50204 or Section 50505 if a licensee demonstrates that it has paid a civil monetary penalty or fine for the same act or transaction, as a violation of Section 17200 or 17500 of the Business and Professions Code, Section 2941 of the Civil Code, or provisions of the Real Estate Settlement Procedures Act (12 U.S.C.A. Sec. 2601 et seq.).

CHAPTER 8. OPERATION OF DIVISION

50601. This division shall become operative on January 1, 1996.

50602. This division is repealed on January 1, 1996, unless the following two conditions are met. First, the Commissioner of Corporations must receive, on or before March 1, 1995, from no fewer than 150 persons, a notice of intention to file an application for licensure as a residential mortgage lender or residential mortgage loan servicer, accompanied by the application filing fee and an annual financial report for calendar year 1994 that meets the requirements of subdivision (a) of Section 50401. Second, the

Legislature shall appropriate money for the implementation of this division to the Department of Corporations from Item 2180-001-067 of the 1995–96 Budget Act. If the above two conditions are not met, all persons who have paid fees or assessments under this division shall receive a refund prior to the date of repeal.

50603. (a) Any person who obtains a license after June 30, 1996, shall be subject to an assessment for the first 12 months of licensure equal to 150 percent of the assessment otherwise required under subdivision (a) of Section 50401. The commissioner may exempt a person from this requirement if the person can establish that the person would not have qualified for a license if the person had (1) submitted a notice of intent to file an application prior to March 1, 1995, and (2) submitted an application prior to September 30, 1995.

(b) This section is operative only until June 30, 1999, and on that date is repealed.

SEC. 8. Section 10133.1 of the Business and Professions Code, as amended by Section 1 of this act, Section 10145 of the Business and Professions Code, as amended by Section 2 of this act, Section 10232 of the Business and Professions Code, as amended by Section 3 of this act, Section 10232.4 of the Business and Professions Code, as amended by Section 4 of this act, and Section 24058 of the Financial Code, as amended by Section 6 of this act, shall become operative on January 1, 1996, only if the following two conditions are satisfied. First, the Commissioner of Corporations must receive, on or before March 1, 1995, from no fewer than 150 persons, a notice of intention to file an application for licensure as a residential mortgage lender or residential mortgage loan servicer, accompanied by the application filing fee and an annual financial report for calendar year 1994 that meets the requirements of subdivision (a) of Section 50401. Second, the Legislature shall appropriate money for the implementation of Division 20 (commencing with Section 50000) of the Financial Code, as added by this act, to the Department of Corporations from Item 2180-001-067 of the 1995–96 Budget Act. If the above two conditions are not met, the above listed sections shall not become operative as amended by this act.

SEC. 9. Notwithstanding Sections 50601 and 50602 of the Financial Code, as added by this act, and Section 8 of this act, the Commissioner of Corporations may apply, as if operative, provisions of this act and may adopt rules for the review of applications for licensure as a residential mortgage lender or a residential mortgage loan servicer filed prior to January 1, 1996. A license issued under this division shall take effect on January 1, 1996, or the date it is issued, whichever is later.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 995

An act to amend Sections 68500.5, 69892.1, 69894.1, 69894.3, 69894.6, 70141.6, 72604, 72608, 72609, 72703, 72704, 72704.5, 72706, 72708.5, 72755, 72764, 72771, 72771.1, 72778, 72782, 73347, 73348, 73351, 73352, 73353, 73353.2, 73354, 73355, 73356, 73357, 73358, 73362, 73433, 73435, 73436, 73436.1, 73436.2, 73437, 73440, 73644, 73646, 73649, 73674, 73683, 73684, 73773, 73793, 73796, 73797, 73798, 73954, 73957, 73959, 74344, 74345, 74348, 74349, 74351, 74351.5, 74352, 74355, 74356, 74357, 74358, 74359, 74368, 74369, 74370, 74604, 74607, 74642, 74643, 74644, 74644.5, 74745, 74749, 74843, 74905, 74912, 74921.7, 74921.10, 74937, 74940, 74984, 74985, 74986, and 74987 of, to add Sections 73644.5, 73954.5, 74359.1, 74359.2, and 74745.5 to, and to repeal Sections 73346 and 73672.8 of, the Government Code, relating to courts.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 68500.5 of the Government Code is amended to read:

68500.5. The annual salary of the Administrative Director of the Courts shall be set by the chairperson of the Judicial Council and shall be no less than the salary of a judge of the court of appeal, and shall be paid out of appropriations for the support of the Judicial Council.

The salary of a judge of a court of appeal means the salary of a judge first appointed to the court of appeal after January 1, 1982.

SEC. 1.3. Section 69892.1 of the Government Code is amended to read:

69892.1. Notwithstanding any applicable county charter provision to the contrary, a majority of the judges of the superior court in any county with a population of over 7,000,000 as determined by the 1980 federal census shall appoint an executive officer/clerk of the superior court who shall hold office at the pleasure of the court and shall exercise administrative powers and perform other duties as may be required of him or her. The court shall fix the qualifications of the officer and may delegate to him or her any administrative powers and duties as are now or may hereafter by law be vested in or required to be exercised by the court. The executive officer/clerk of the superior court shall prepare an annual report and other reports as may be directed by the court. The annual salary of the executive officer/clerk of the superior court shall be as provided in Section

69894.1. He or she shall be allowed actual traveling and other necessary expenses while engaged in the discharge of the duties of his or her office.

SEC. 2. Section 69894.1 of the Government Code is amended to read:

69894.1. In the County of Los Angeles, a majority of the judges of the superior court may appoint the following officers and employees whose salaries shall be:

Number	Title	Schedule
5	Accountant, SC	68J
1	Accounting Officer II, SC	75E
1	Accounting Technician	53L
6	Administrative Assistant II	67F
5	Administrative Assistant III	71B
19	Administrative Judicial Secretary	70E N3
13	Administrative Secretary	69E
1	Administrator I, SC	R11
2	Administrator II, SC	R12
2	Administrator III, SC	R13
1	Arbitration/Judicial Assignment Administrator, SC	82E
1	Assistant Director, Management Systems, SC	R10
50	Assistant Division/District Chief	80E
1	Assistant Head, Office Services	65C
1	Assistant Supervising Probate Attorney	100A NX
1	Chief Attorney, Planning and Research, SC	95K NW
2	Chief Clerk	67A
1	Chief Management Studies, SC	87G
1	Chief, Office and Special Support Service, SC	76E
15	Child Custody Evaluator	81K
3	Computer Equipment Operator, SC	52A
1	Computer System Operator, SC	58E
61	Court Commissioner	F $7,033.53
25	Court Exhibits Custodian	58L
3	Court Facilities and Property Services Coordinator	72F
362	Court Reporter	82F NZ N3
12	Court Services Administrator I, SC	R9
3	Court Services Administrator II, SC	R10
77	Court Services Liaison, SC	57D
1	Criminal Courts Coordinator	R10
21	Data Conversion Equipment Operator	54C
2	Data Conversion Supervisor I, SC	58B

1	Data Conversion Supervisor II, SC	62A
1	Data Processing Contracts Administrator, SC	81A
4	Data Processing Manager, SC	86C
1	Deputy Executive Officer, SC	R15
1	Director, Capital Projects/Facility Management, SC	R12
3	Director, SC	R14
16	District Jury Coordinator	56H
1	Division Chief, Child Advocates Office, SC	R8
6	Division Chief, Family Court Services, SC	R9
1	Division Chief, Mental Health Services, SC	R9
10	EDP Programmer Analyst I, SC	72G
10	EDP Programmer Analyst II, SC	74G
14	EDP Senior Programmer Analyst, SC	79F
19	EDP Supervising Programmer Analyst, SC	82K
46	Electronic Recording Monitor	57D
1	Employee Relations Representative, SC	80E
1	Executive Officer/Clerk of the Superior Court	R18
1	Finance Officer, Mandatory Expense, SC	84D
1	Graphic Artist, SC	62K
2	Head, Management Audits	85A
1	Head Referee, Juvenile Traffic, SC	86C
1	Head, Staffing Services	79G
4	Interpreter	56A
3	Interpreter/Court Reporter Assignment Clerk	68H
14	Investigator	71J NX
1	Judicial Administrative Specialist, SC	75F N3
290	Judicial Assistant	67J NX
30	Judicial Assistant Trainee	F $2,505.00
14	Judicial Secretary	63E N3
2	Jury Program Coordinator	75G
66	Law Clerk	73F
1	Law Librarian, Superior Court	75G
4	Legal Research Assistant	56L
1	Light Vehicle Driver	45K
4	Manager I, SC	R9
11	Manager II, SC	R10
5	Manager III, SC	R11
19	Mental Health Hearing Referee	81K
545	Office Assistant I	48H

173	Office Assistant II	52H
396	Office Assistant III	54H
47	Office Assistant IV	56H
5	Office Assistant Trainee	44H
3	Office Systems Technician I, SC	65A
2	Office Systems Technician II, SC	72A
1	Payroll Records Supervisor	64B
8	Payroll Technician, SC	59B
4	Personnel Assistant	55A
6	Personnel Technician	71G
1	Photocopy Machine Operator I, SC	41G
1	Photocopy Machine Operator II, SC	45L
1	Principal Counselor	80H
16	Principal Program Analyst	81G
3	Printer I, SC	54F
1	Printer II, SC	59D
1	Printing Production Supervisor, SC	67H
12	Probate Attorney	95K NW
11	Probate Decree Clerk	55C
1	Procurement Assistant	55J
1	Procurement Assistant II, SC	61H
10	Program Analyst	71G
8	Program Specialist	65L
4	Property Custodian Auditor	54H
1	Public Information Officer	R10
7	Records Assistant	54L
11	Referee	FD $323.384
18	Referee, Juvenile Traffic, SC	82C
1	Research Attorney	89K
3	Secretary I	58C
42	Secretary II	65E
1	Secretary to the Assistant Presiding Judge	75E
1	Secretary to the Chief Deputy EO/ Clerk of SC	73E
1	Secretary to the EO/Clerk of SC	79E
1	Secretary to Grand Jury	73D
1	Secretary to Presiding Judge	81E
4	Senior Administrative Secretary, SC	71E
12	Senior Counselor	77H
5	Senior Court Services Liaison, SC	64B
2	Senior Departmental Personnel Technician	75G
10	Senior Electronic Recording Monitor, SC	64B
35	Senior Family Mediator	81K
60	Senior Judicial Assistant, SC	76F
35	Senior Judicial Secretary	66E N3
30	Senior Office Assistant I	58H

9	Senior Office Assistant II	62E
5	Senior Personnel Assistant	64J
1	Senior Probate Attorney, SC	97K NX
1	Senior Probate Decree Clerk	61B
6	Senior Program Analyst	75G
2	Senior Property Custodian Auditor	60G
3	Senior Word Processor	57C
1	Special Assistant	R8
1	Special Assistant, Appellate Department, SC	76E
2	Staff Assistant I	58H
21	Staff Assistant II	65H
2	Staff Attorney, Planning and Research, SC	86K NW
1	Staff Consultant	R10
1	Student Worker, Junior, SC	FH $5.450
1	Student Worker, SC	FH $6.470
218	Student Professional Worker, SC	FH $7.820
2	Supervising Computer Operator, SC	65A
3	Supervising Court Exhibits Custodian I	61K
1	Supervising Court Exhibits Custodian II	68B
1	Supervising Data Control Clerk I, SC	52D
9	Supervising District Office Clerk	65J
4	Supervising Law Clerk	75F
1	Supervising Probate Decree Clerk	71L
1	Supervisor, Computer Support Services, SC	70D
2	Supervisor, Records Section, SC	65A
1	Training Officer, SC	79G
8	Warehouse Worker I, SC	53J
1	Warehouse Worker II, SC	57J
10	Family Counselor Intern, W/O Compensation	
250	Volunteer, W/O Compensation	

Whenever a reference to numbered salary schedules and notes is made in this section, those found in the Los Angeles County Code, Title 6, shall apply. Whenever the compensation of superior court judges is adjusted, the flat-rate salaries for court commissioners and referees shall be adjusted to maintain the salary relationship of 85 percent of the annual compensation of superior court judges.

As defined in the Los Angeles County Code, Section 6.28.030, the following prefixes are used instead of schedule numbers:

F—Flat rate per month

FD—Flat rate per day

FH—Flat rate per hour

N.W.—As defined in the Los Angeles County Code Section 6.28.050.

N.X.—As defined in the Los Angeles County Code Section 6.28.050.

N.Z.—As defined in the Los Angeles County Code Section 6.28.050.

"R" or "A" indicates a position's inclusion in the County's Performance Based Pay Plan. The grade number following the "R" or "A" designation indicates the salary range. Compensation of these positions is in accordance with Sections 6.08.300 to 6.08.380, inclusive, of the county code.

All personnel appointed pursuant to this article shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

SEC. 3. Section 69894.3 of the Government Code is amended to read:

69894.3. Employees of the superior court in each county having a population of over 2,000,000 shall be entitled to step advancement, vacation, sick leave, holiday benefits and other leaves of absence and other benefits as may be directed by rules of the court. Where statutes require implementation by local ordinances for the extension of benefits to local officers and employees, these may be made applicable by rule to court personnel, including but not limited to jurors, and judges.

These benefits shall also include the same lump sum payments for sick leave and vacation for the superior court employees when they are separated from the service as are made to county employees of the county; except that lump-sum payments to court commissioners when separated from the service of the superior court shall be limited to accrued vacation if any, as is provided by local rule of court, exclusive of accrued sick leave.

Court employees under this section shall have the right to transfer to other departments in the county government, subject to the approval of the board of supervisors, the county charter, and other usual conditions that may be placed upon the transfer, including, but not limited to, a requirement that the transferee successfully complete an appropriate civil service examination. The right of transfer shall not give any employee any additional rights by reason of his employment with the court, other than those to which he would have been entitled if the employment had been with a different department of the county government.

Employment by the court shall be deemed to be employment by the county, if approved by rule of court, for the purpose of determining a court employee's rights with respect to a county's ordinances providing for salary step advancements and other employee benefits and rights, including, but not limited to, amount of compensation, vacations, sick leave, and accumulated sick leave.

In any such county attachés may be voluntarily transferred from a position in one judicial district to a position in another within the county and promoted or voluntarily demoted from a position in one judicial district to a position in another within the county in substantially the same manner as transfers, demotions and promotions are authorized generally in county departments or

between departments of the county.

Rules of the court may include other matters pertaining to the general administration of the court, including conditions of employment of court personnel, including but not limited to jurors and judges. When rules are adopted by a majority of the judges and filed with the Judicial Council they shall have the same status as other rules of court adopted pursuant to Section 68070.

When requested to do so by the court the county shall through the county civil service commission furnish to the court services as may be required in connection with the recruitment and employment of court officers and employees.

SEC. 4. Section 69894.6 of the Government Code is amended to read:

69894.6. Notwithstanding Section 69894.1, in the County of Los Angeles, a majority of the judges of the superior court may appoint 362 court reporters at salary schedule 82F, NZ, N3. The salary schedule and notes are those found in the Los Angeles County Code, Title 6. Court reporters shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

SEC. 5. Section 70141.6 of the Government Code is amended to read:

70141.6. (a) In Kern County, the superior court may provide that the commissioner, in addition to the duties prescribed in Section 259 of the Code of Civil Procedure, shall perform the duties prescribed by Section 259a of the Code of Civil Procedure and the duties of a probate commissioner appointed pursuant to Section 69897.

(b) The commissioner shall receive a salary equal to 70 to 85 percent of the annual salary for a superior court judge. The commissioner shall be paid biweekly pursuant to the payroll procedures in effect in the County of Kern in an amount equivalent to 70 to 85 percent of a superior court judge's salary. The court shall recommend to the board of supervisors the level of salary to be received by the commissioner based on qualifications, performance, and other factors deemed relevant by the court, and the board of supervisors shall determine the salary level within the specified range. The biweekly salary rate of the commissioner shall be adjusted at the same time and manner and in the same percentage amount as set forth in Section 68203. The commissioner shall also be allowed actual traveling expenses pursuant to Section 70148.

(c) In addition to the compensation provided for in this section, the commissioner shall be entitled to and shall receive on the same basis as other county employees, the same benefits and privileges, with respect to retirement, group insurance, sick leave, and vacation. The commissioner shall observe the same holidays as other court employees.

SEC. 6. Section 72604 of the Government Code is amended to read:

72604. Notwithstanding Article 9 (commencing with Section

69941) of Chapter 5, or any other provision of law in conflict with this section, in each municipal or justice court district in counties having a population of 2,000,000 inhabitants, or over, as determined by the 1970 federal census, except in municipal court districts where a statute provides otherwise, the official reporter and official reporters pro tempore in those districts governed by this section shall receive for their services the same per diem fee paid to official court reporters pro tempore of the Superior Court of Los Angeles County. All other fees of these reporters for transcription shall be as provided in Article 9 (commencing with Section 69941) of Chapter 5.

SEC. 7. Section 72608 of the Government Code is amended to read:

72608. Certain classes of positions prescribed in Article 1.5 (commencing with Section 72620), Article 1.6 (commencing with Section 72630), Article 2 (commencing with Section 72640), Article 3 (commencing with Section 72700), and Article 4 (commencing with Section 72750) are deemed to be related in job and compensation to position classifications included in the Los Angeles County Code, and in the case of certain classes of positions, to the administrative series included in Section 69894.1. In order to maintain the relationship of compensation and employee rights and benefits between officers and attachés of municipal courts and county or superior court employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee rights and benefits for related classes of court positions, this section shall govern salary adjustments and employee rights and benefits for officers and attachés of municipal courts in Los Angeles County.

On the effective date of any amendment to the Los Angeles County Code adjusting the salary of a county employee classification listed in the table of positions set forth in this section, or on the effective date of a resolution or ordinance by the board of supervisors approving interim salary adjustments for superior court classes pursuant to Section 69894.2, the salary of the related municipal court position listed opposite thereto shall be adjusted an equivalent number of schedules or steps in a schedule in the salary schedule to which that position is attached. If the level of compensation established by any salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in the classification on the effective date of the act fixing the salary schedule number. Classes of positions in the Performance-Based Pay Plan shall be compensated and adjusted in accordance with provisions approved by the board of supervisors.

Likewise, the salary of any court classification being enumerated in Article 1.5 (commencing with Section 72620), Article 1.6 (commencing with Section 72630), Article 2 (commencing with Section 72640), Article 3 (commencing with Section 72700), or Article 4 (commencing with Section 72750) for the first time as an

amendment to this chapter shall be adjusted as necessary on the effective date of that amendment to provide the same relationship to the county classification to which it is attached as that established when the court classification was approved in accordance with Section 72607.

Table of Positions

Municipal Court Class	County or Superior Court Class
Officer Series	
Marshal	Commander
Assistant Marshal	Commander
Commander, Marshal	Commander
Captain, Marshal	Captain
Lieutenant, Marshal	Lieutenant
Sergeant, Marshal	Sergeant
Deputy Marshal IV	Deputy Sheriff IV
Deputy Marshal	Deputy Sheriff
Deputy Marshal Trainee	Deputy Sheriff Trainee
Deputy Marshal, Matron	Custody Assistant
Deputy Clerk, Custody Officer	Custody Assistant
Legal Services Specialist, Marshal	Safety Police Officer II
Security Officer I, Marshal	Safety Police Officer I
Security Officer II, Marshal	Safety Police Officer I
Municipal Courts Planning and Research	
Chief Staff Attorney, P & R	Senior Deputy County Counsel
Assistant Chief Staff Attorney, P & R	Senior Deputy County Counsel
Staff Attorney III, P & R	Senior Deputy County Counsel
Staff Attorney II, P & R	Senior Deputy County Counsel
Staff Attorney I, P & R	Senior Deputy County Counsel
Legal Research Assistant, P & R	Senior Deputy County Counsel
Planning Analyst, P & R	Program Specialist I, CAO
Planning Analyst Aide, P & R	Administrative Staff Trainee, CAO
Principal Budget Analyst, P & R	Program Specialist I, CAO
Head, Management	Program Specialist I,

Services, P & R	CAO
Senior Planning Analyst, P & R	Program Specialist I, CAO

Courtroom Series

All positions subject to civil service provisions enumerated in Articles 2, 3, and 4 which are not listed in this table.	Superior Court Clerk
Court Clerk, M.C.	Judicial Assistant, S.C. (Salary adjustments and insurance benefits only) Intermediate Typist-Clerk (All other benefits)
Municipal Court Clerk Trainee	Administrative Aide
Municipal Court Judicial Assistant, NCS	Judicial Assistant, S.C. (Salary adjustments and insurance benefits only) Intermediate Typist-Clerk (All other benefits)
Municipal Court Judicial Assistant Trainee, NCS	Administrative Aide (Salary adjustments and insurance benefits only) Intermediate Typist-Clerk (All other benefits)

Management Series

Court Administrator, LAMC	Performance-Based Pay Plan
Assistant Court Administrator, LAMC	Performance-Based Pay Plan
Deputy Court Administrator, Admin. and Financial Service, LAMC	Performance-Based Pay Plan
Deputy Court Administrator, Operations, LAMC	Performance-Based Pay Plan
Division Chief, Operations, LAMC	Performance-Based Pay Plan
Division Chief, Operations, NCS, LAMC	Performance-Based Pay Plan
Personnel Administrator, NCS, M.C.	Performance-Based Pay Plan
Senior Program & System	Performance-Based Pay Plan

Analyst, M.C.	
Senior Program & System Analyst, NCS, M.C.	Performance-Based Pay Plan
Managing Court Reporter, NCS, LAMC	Performance-Based Pay Plan
Capital Projects Manager, M.C., NCS	Performance-Based Pay Plan
Assistant Capital Projects Manager, NCS, LAMC	Performance-Based Pay Plan
Court Information Officer, M.C., NCS	Performance-Based Pay Plan
Chief, Systems Division, NCS, M.C.	Performance-Based Pay Plan
Assistant Chief, Systems Division, M.C., NCS	Performance-Based Pay Plan
Senior Court Manager, NCS, LAMC	Performance-Based Pay Plan
Assistant Division Chief Operations	Performance-Based Pay Plan
Assistant Division Chief Operations, NCS, LAMC	Performance-Based Pay Plan
Court Manager, LAMC, NCS	Performance-Based Pay Plan
Administrative Services Manager, M.C., NCS	Performance-Based Pay Plan
Court Administrator (except Los Angeles Judicial District)	Structure adjustment to the nearest one-quarter of one percent approved by the board of supervisors for application to the ranges established for classes assigned to the Performance-Based Pay Plan.
Assistant Chief Deputy, Clerk, M.C.	Program Specialist I, CAO
Assistant Court Administrator (1 judge court)	Court Administrator (1 judge court)
Assistant Court Administrator (2 judge court)	Court Administrator (2 judge court)
Assistant Court Administrator (3,4,5 judge court)	Court Administrator (3,4,5 judge court)
Assistant Court Administrator (6 judge court)	Court Administrator (6 judge court)
Assistant Court Administrator (7 judge court)	Court Administrator (7 judge court)
Assistant Court Administrator (8 judge court)	Court Administrator (8 judge court)
Assistant Court Administrator (9 judge court)	Court Administrator (9 judge court)
Assistant Court Administrator (10,11,12 judge court)	Court Administrator (10,11,12 judge court)

Judicial Management Intern, M.C., NCS	Administrative Assistant II
Division Chief, Long Beach M.C.	Program Specialist I, CAO
Principal Clerk, Los Angeles	Supervising Superior Court Clerk
Training Officer, NCS, M.C.	Performance-Based Pay Plan
Chief Deputy Clerk	Program Specialist I, CAO
Division Chief, NCS, M.C.	Program Specialist I, CAO

Personnel-Administrative Services-Accounting Series

Head, Fiscal & Administrative Services, Marshal	Program Specialist I, CAO
Head Personnel Technician, M.C., NCS	Head Departmental Personnel Technician
Head Personnel Technician, Marshal	Head Departmental Personnel Technician
Personnel Technician, M.C.	Senior Departmental Personnel Technician
Personnel Technician, M.C., NCS	Senior Departmental Personnel Technician
Personnel Technician, Marshal	Senior Departmental Personnel Technician
Personnel Assistant, M.C.	Departmental Personnel Assistant
Personnel Assistant, M.C., NCS	Departmental Personnel Assistant
Personnel Assistant, Marshal	Departmental Personnel Assistant
Safety Officer, Marshal	Safety Officer
Senior Personnel Assistant, M.C.	Senior Departmental Personnel Assistant
Senior Personnel Assistant, Marshal	Senior Departmental Personnel Assistant
Senior Personnel Assistant, M.C., NCS	Senior Departmental Personnel Assistant
Senior Personnel Technician, M.C.	Head, Departmental Personnel Technician
Senior Staff Assistant, Marshal	Program Specialist I, CAO
Staff Assistant, Marshal	Program Specialist I, CAO
Principal Clerk, Marshal	Program Specialist I, CAO
Assistant Head, Fiscal & Administrative Services, Marshal	Program Specialist I, CAO
Executive Assistant, Presiding Judges Association	Program Specialist I, CAO
Principal Administrative	Administrative Assistant

Assistant, M.C.	III
Principal Administrative Assistant, M.C., NCS	Administrative Assistant III
Principal Assistant, Fiscal Services, Marshal	Program Specialist I, CAO
Principal Personnel Assistant, M.C.	Principal Departmental Personnel Assistant
Principal Personnel Assistant, M.C., NCS	Principal Departmental Personnel Assistant
Supervising Accountant, M.C., NCS	Senior Accountant Auditor
Senior Administrative Assistant, M.C.	Administrative Assistant II
Senior Administrative Assistant, M.C., NCS	Administrative Assistant II
Administrative Assistant, M.C.	Administrative Assistant I
Administrative Assistant, M.C., NCS	Administrative Assistant I
Staff Assistant, M.C.	Staff Assistant I
Staff Assistant, M.C., NCS	Staff Assistant I
Statistical Analyst, M.C.	Statistical Analyst
Statistical Analyst, M.C., NCS	Statistical Analyst
Accountant, M.C.	Accountant II
Accountant, M.C., NCS	Accountant II
Accounting Technician, M.C.	Accounting Technician I
Accounting Technician, M.C., NCS	Accounting Technician I
Intermediate Accountant, M.C.	Intermediate Accountant Auditor
Intermediate Accountant, M.C., NCS	Intermediate Accountant Auditor
Senior Accountant, M.C.	Intermediate Accountant Auditor
Senior Accountant, M.C., NCS	Intermediate Accountant Auditor
Facilities Services Assistant, M.C.	Facilities Services Assistant
Facilities Services Assistant, M.C., NCS	Facilities Services Assistant
Facilities Planning Assistant, M.C.	Facilities Planning Assistant
Facilities Planning Assistant, M.C., NCS	Facilities Planning Assistant
Staff Development Specialist, Muni Crt	Staff Development Specialist I, D.A.
Staff Development Specialist,	Staff Development Specialist I,

M.C., NCS	D.A.
Account Clerk, M.C.	Account Clerk II
Personnel Clerk, M.C.	Senior Typist-Clerk
Personnel Clerk, M.C., NCS	Senior Typist-Clerk
Management Services Specialist, M.C., NCS	Program Specialist I, CAO

Secretarial and Stenographic Series

Secretary to Presiding Judge, LAMC	Executive Secretary II
Secretary to Presiding Judge, M.C., NCS	Executive Secretary II
Executive Secretary, M.C.	Executive Secretary II
Executive Secretary, M.C., NCS	Executive Secretary II
Senior Management Secretary, LAMC	Executive Secretary II
Senior Management Secretary, M.C., NCS	Executive Secretary II
Management Secretary, M.C.	Executive Secretary II
Management Secretary, M.C., NCS	Executive Secretary II
Management Secretary II, M.C., NCS	Senior Management Secretary II
Executive Secretary, Marshal	Executive Secretary II
Senior Secretary II, Muni Ct	Senior Secretary II
Senior Secretary II, M.C., NCS	Senior Secretary II
Management Secretary, Marshal	Senior Secretary II
Senior Judicial Secretary, Muni Ct	Senior Secretary II
Senior Judicial Secretary, M.C., NCS	Senior Secretary II
Senior Secretary III, Muni Ct	Senior Secretary II
Senior Secretary III, M.C., NCS	Senior Secretary II
Senior Secretary I, Muni Ct	Senior Secretary II
Senior Secretary I, M.C., NCS	Senior Secretary II
Secretary, Marshal	Senior Secretary II
Secretary, Muni Ct	Senior Secretary II
Secretary, M.C., NCS	Senior Secretary II
Senior Secretary, Marshal	Senior Secretary II

Stenographer, M.C.	Legal Office Support Assistant I
Stenographer, M.C., NCS	Legal Office Support Assistant I

Clerical Series

Deputy Municipal Court Clerk I	Intermediate Typist-Clerk
Deputy Clerk II, Marshal	Intermediate Typist-Clerk
Deputy Clerk I, Marshal	Intermediate Typist-Clerk
Deputy Municipal Court Clerk II	Intermediate Typist-Clerk
Deputy Clerk III, M.C.	Intermediate Typist-Clerk
Deputy Clerk III, Marshal	Intermediate Typist-Clerk
Administrative Clerk, Marshal	Intermediate Typist-Clerk
Clerical Aide, Municipal Court	Intermediate Typist-Clerk
Clerical Aide, M.C., NCS	Intermediate Typist-Clerk
Office Services Assistant I, M.C., NCS	Intermediate Typist-Clerk
Office Services Assistant II, M.C., NCS	Intermediate Typist-Clerk
Office Services Assistant III, M.C., NCS	Intermediate Typist-Clerk
Senior Payroll Clerk, Marshal	Payroll Clerk II
Supervising Payroll Clerk, Marshal	Supervising Payroll Clerk I
Payroll Clerk, Marshal	Assistant Payroll Clerk II
Assistant Payroll Technician, M.C., NCS	Payroll Clerk I
Payroll Technician, M.C., NCS	Payroll Clerk II
Supervising Payroll Technician, M.C., NCS	Supervising Payroll Clerk II
Marshal's Dispatcher I	Communication Operator II, Sheriff
Marshal's Dispatcher II	Communication Operator II, Sheriff
Supervising Deputy Clerk I, M.C.	Supervising Typist-Clerk
Deputy Clerk Supervisor, NCS, LAMC	Supervising Typist-Clerk
Senior Courtroom Clerk, M.C., NCS	Senior Judicial Assistant

Supply, Duplicating, and Miscellaneous Series

Supply and Reproduction Supervisor, Marshal	Warehouse Worker II
Supply and Reproduction Assistant, Marshal	Warehouse Worker II
Warehouse Worker Aide, M.C., NCS	Warehouse Worker Aide
Procurement Assistant I, M.C., NCS	Procurement Assistant I
Procurement Assistant II, M.C.	Procurement Assistant II
Procurement Assistant II, M.C., NCS	Procurement Assistant II
Procurement Aide, M.C.	Procurement Aide
Procurement Aide, M.C., NCS	Procurement Aide
Light Vehicle Driver, Marshal	Communications Messenger Driver
Light Vehicle Driver, M.C.	Light Vehicle Driver
Light Vehicle Driver, M.C., NCS	Light Vehicle Driver
General Maintenance Supervisor, M.C.	General Maintenance Supervisor
General Maintenance Supervisor, M.C., NCS	General Maintenance Supervisor
General Maintenance Worker, M.C.	General Maintenance Worker
General Maintenance Worker, M.C., NCS	General Maintenance Worker
Student Professional Worker, M.C., NCS	Student Professional Worker
Student Worker, M.C., NCS	Student Worker
Warehouse Worker I, Marshal	Warehouse Worker I
Warehouse Worker I, M.C., NCS	Warehouse Worker I
Warehouse Worker II, M.C.	Warehouse Worker II
Warehouse Worker II, M.C., NCS	Warehouse Worker II
Warehouse Manager, M.C.	Warehouse Manager
Warehouse Manager, M.C., NCS	Warehouse Manager
Graphic Artist, M.C.	Graphic Artist
Graphic Artist, M.C., NCS	Graphic Artist
Supervising Law Clerk	Supervising Law Clerk (SC)
Supervising Law Clerk,	Supervising Law Clerk (SC)

M.C., NCS	
Law Clerk	Law Clerk (SC)
Interpreter, M.C., NCS	Interpreter (SC)

Management Information and Data Processing Series

Data Systems Coordinator, M.C.	Data Systems Coordinator
Data Systems Coordinator, M.C., NCS	Data Systems Coordinator
Data Systems Analyst Aide, M.C., NCS	Data Systems Analyst Aide
Data Systems Analyst I, M.C.	Data Systems Analyst I
Data Systems Analyst I, M.C., NCS	Data Systems Analyst I
Data Systems Analyst II, M.C.	Data Systems Analyst II
Data Systems Analyst II, M.C., NCS	Data Systems Analyst II
Data Conversion Supervisor I, M.C.	Data Conversion Supervisor I
Data Conversion Supervisor I, M.C., NCS	Data Conversion Supervisor I
Data Conversion Supervisor III, M.C.	Data Conversion Supervisor III
Data Conversion Supervisor III, M.C., NCS	Data Conversion Supervisor III
EDP Staff Aide, M.C.	Systems Aide
EDP Staff Aide, M.C., NCS	Systems Aide
EDP Support Analyst II, M.C., NCS	EDP Support Analyst II
Supervising Computer Operator, M.C.	Supervising Computer Operator
Supervising Computer Operator, M.C., NCS	Supervising Computer Operator
Computer Operations Supervisor, M.C.	Supervising Computer Operator
Computer Operations Supervisor, M.C., NCS	Supervising Computer Operator
Computer Equipment Operator, M.C.	Computer Equipment Operator
Computer System Operator, M.C.	Computer Systems Operator
Senior Data Control Clerk, M.C.	Senior Data Control Clerk
Data Control Clerk, M.C.	Data Control Clerk
Senior Data Conversion	Senior Data Conversion

Equipment Operator, M.C.	Equipment Operator
Data Conversion Equipment Operator I, M.C.	Data Conversion Equipment Operator I
Principal Programmer Analyst, M.C.	EDP Principal Programmer Analyst
Principal Programmer Analyst, M.C., NCS	EDP Principal Programmer Analyst
Senior Programmer Analyst, M.C.	EDP Programmer Analyst II
Senior Programmer Analyst, M.C., NCS	EDP Programmer Analyst II
Systems Programmer, M.C.	EDP Systems Programmer
Systems Programmer, M.C., NCS	EDP Systems Programmer
Telecommunications Technician, M.C.	Computer Systems Operator
Telecommunications Technician, M.C., NCS	Computer Systems Operator
Senior Telecommunications Systems Engineer, M.C., NCS	Senior Telecommunications Systems Engineer
Data Processing Specialist I, M.C., NCS	Data Processing Specialist I
Systems Aide, M.C., NCS	Systems Aide
Senior Systems Aide, M.C., NCS	Senior Systems Aide

All classes of positions approved by a majority of the judges of the municipal court and the board of supervisors for inclusion in the Los Angeles County Performance-Based Pay Plan will be compensated in accordance with this plan as set forth in Part 3, Chapter 6.08, of the Los Angeles County Code. All of these provisions are applicable to participants in the marshal's department, except that for the marshal, the appointing authority is the municipal court judges of Los Angeles County, and for all other participants in the marshal's department, the appointing authority is the marshal. For purposes of PBP administration only, the appointing authority for the court administrator, Los Angeles Judicial District, is the court's executive committee. The court administrator, is the appointing authority for all other participants in the Los Angeles Judicial District.

The presiding judge, the immediate past presiding judge (if still a member of the Los Angeles Municipal Court) and the assistant presiding judge will confer with the court administrator to establish new performance goals and evaluate the completion of previously established goals; these judges will then rate the court administrator's performance using the PBP rating categories established in the county code. The presiding judge shall present this rating to the executive committee for ratification at its July meeting.

In the event that the executive committee does not act upon the rating, the presiding judge shall forward the rating to the CAO for inclusion in the Los Angeles Municipal Court's Merit Salary Increase Guideline. In the event a rating is not completed, the court administrator's salary will be adjusted in accordance with the Los Angeles Municipal Court Merit Increase Guideline based on a "fully meets expectations" rating.

Any existing special pay provision applicable to court classes included in PBP and which is expressed in terms of additional schedules of compensation will be converted to a percentage basis in accordance with the county's plan which equates each schedule with 2.75 percent.

Salary adjustments made pursuant to this section shall be on an interim basis and shall expire 90 days after the adjournment of the next regular session of the Legislature unless ratified at such session.

Officers and attachés of municipal courts in Los Angeles County shall be entitled to all employee rights, programs and benefits, including, but not limited to, paid medical plans, management incentive, pay for performance, deferred compensation plans, flexible benefit plans, and early separation programs, parking and cafeteria privileges, longevity pay, shooting allowance, uniform and equipment allowance, and the same rights to meet with those entities which prescribe their compensation, that are provided for or made applicable to the related Los Angeles County and superior court employee classification. Participation in management incentive early separation programs and pay for performance shall be established by joint action and approval of a majority of the board of supervisors and a majority of the judges of the court, except in the Los Angeles Judicial District where joint action shall be approved by a majority of the board of supervisors and a majority of the court's executive committee.

Bonus Level I assignments of deputy marshals are as follows:

Nineteen positions—assistant commander, small division.

Twelve positions—court supervisor.

Nine positions—field supervisor.

Nine positions—office supervisor.

Three positions—communications and fleet management supervisor.

One position—training officer.

One position—real estate levy/bookkeeping section supervisor.

Bonus Level II assignments of deputy marshals are as follows:

One position—security liaison and investigations.

Deputy marshals with Bonus Level I assignments shall receive additional compensation in the same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned to Bonus Level I positions. Deputy marshals with Bonus Level II assignments shall receive additional compensation in the same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned

to Bonus Level II positions.

In addition to the salary adjustment otherwise provided by this section, persons employed in the classifications of executive secretary, M.C., senior management secretary, M.C., and secretary to the presiding judge shall receive a one-time only two-schedule salary increase effective January 1, 1989. The resulting salary rate shall constitute the base rates for subsequent salary adjustments.

In addition to the salary provided by the applicable performance-based pay provisions, a 16.5 percent bonus shall be paid to no more than one position of deputy court administrator in the Los Angeles Municipal Court who is admitted to practice law before all courts in California and required to render legal opinions and provide legal advice to the court administrator and judges.

Any deputy municipal court clerk I, deputy municipal court clerk II, deputy clerk III, M.C., deputy clerk IV, M.C., municipal court judicial assistant, NCS, or court clerk, M.C. who, in addition to a regular courtroom assignment, is required to operate and monitor electronic recording equipment to produce the official record of the court proceedings shall receive a two-schedule increase in compensation while so engaged. Effective January 3, 1989, any deputy clerk IV, M.C., municipal court judicial assistant, NCS, or court clerk, M.C. assigned to a courtroom, who in addition to his or her regular duties, is required to operate and monitor electronic recording equipment to produce a record of court proceedings shall receive an increase of eight standard salary levels while so engaged. However, in no event shall a person who is receiving additional compensation for performing duties involving greater skill and responsibility as described in subdivision (b) of Section 72705 or subdivision (k), (*l*), or (m) of Section 72755 be eligible to receive additional compensation pursuant to this subdivision, except for a deputy clerk III, M.C. assigned to the regular duties of a deputy clerk IV, M.C. or court clerk, M.C. as provided in subdivision (j) of Section 72755.

SEC. 8. Section 72609 of the Government Code is amended to read:

72609. Except where otherwise provided by law, officers and attachés of municipal courts in Los Angeles County shall receive a monthly salary at a rate specified in the Los Angeles County Code as follows:

Title	Range/ Schedule
Account Clerk, M.C.	51L
Accountant, M.C.	65D
Accountant, M.C., NCS	65D
Accounting Officer II	76B
Accounting Technician, M.C.	54H
Accounting Technician, M.C., NCS	54H
Administrative Assistant, M.C.	N2 58F

Administrative Assistant, M.C., NCS	N2 58F
Administrative Clerk, Marshal	58F
Administrative Services Manager, M.C., NCS	N23 R9
Assistant Capital Projects Manager, NCS, LAMC	N23 R8
Assistant Chief Deputy Clerk, M.C.	76G
Assistant Chief Staff Attorney, Planning and Research	NW 95K
Assistant Chief, Systems Division, M.C., NCS	N23 R10
Assistant Court Administrator LAMC	N23 R15
Assistant Court Administrator (1 judge court)	80D
Assistant Court Administrator (2 judge court)	81D
Assistant Court Administrator (3, 4, 5 judge court)	82D
Assistant Court Administrator (6 judge court)	83D
Assistant Court Administrator (7 judge court)	84D
Assistant Court Administrator (8 judge court)	85D
Assistant Court Administrator (9 judge court)	NW 86D
Assistant Court Administrator (10, 11, 12 judge court)	87D
Assistant Division Chief, Operations	N23 R8
Assistant Division Chief, Operations, NCS, LAMC	N23 R8
Assistant Head, Fiscal & Administrative Services, Marshal	82K
Assistant Marshal	114C
Assistant Payroll Technician, M.C., NCS	53K
Capital Projects Manager, M.C., NCS	N23 R10
Captain, Marshal	100H
Chief Deputy Clerk	75G
Chief Staff Attorney, Planning and Research	NX 100A
Chief, Systems Division, NCS, M.C.	N23 R12
Clerical Aide, Municipal Court	34D
Clerical Aide, M.C., NCS	34D
Commander, Marshal	105B
Computer Equipment Operator, M.C.	52J
Computer Operations Supervisor, M.C.	75A
Computer Operations Supervisor, M.C., NCS	75A
Computer Systems Operator, M.C.	58E
Court Administrator (1 judge court)	88D
Court Administrator (2 judge court)	89D
Court Administrator (3, 4, 5 judge court)	90D
Court Administrator (6 judge court)	91D
Court Administrator (7 judge court)	92D
Court Administrator (8 judge court)	93D
Court Administrator (9 judge court)	94D
Court Administrator (10, 11, 12 judge court)	95D
Court Administrator, Los Angeles Municipal Court	N23 R18
Court Clerk, M.C.	NX 67J

Court Information Officer, M.C., NCS	N23 R8
Court Manager, LAMC, NCS	N23 R6
Custodian NC	FH $8.37
Data Control Clerk, M.C.	48F
Data Conversion Equipment Operator I, M.C.	50L
Data Conversion Supervisor I, M.C.	58B
Data Conversion Supervisor I, M.C., NCS	58B
Data Conversion Supervisor III, M.C.	67H
Data Conversion Supervisor III, M.C., NCS	67H
Data Processing Specialist I, M.C., NCS	92A
Data Systems Analyst Aide, M.C., NCS	66A
Data Systems Analyst I, M.C.	72G
Data Systems Analyst I, M.C., NCS	72G
Data Systems Analyst II, M.C.	75C
Data Systems Analyst II, M.C., NCS	75C
Data Systems Coordinator, M.C.	81J
Data Systems Coordinator, M.C., NCS	81J
Deputy Clerk I, Marshal	N4 48H
Deputy Clerk II, Marshal	51L
Deputy Clerk III, Marshal	54G
Deputy Clerk III, M.C.	55D
Deputy Clerk IV, M.C.	NX 66B
Deputy Clerk-Custody Officer, Marshal	57H
Deputy Clerk Supervisor, NCS, LAMC	61H
Deputy Court Administrator, Administrative & Financial Services, LAMC	N23 R13
Deputy Court Administrator, Operations, LAMC	N23 R13
Deputy Marshal	NW 74D
Deputy Marshal IV	78D
Deputy Marshal Matron	NW 62K
Deputy Marshal Trainee	75D
Deputy Municipal Court Clerk I	N3 49E
Deputy Municipal Court Clerk II	52H
Division Chief, NCS, M.C.	80G
Division Chief, Long Beach, M.C.	80G
Division Chief, Operations, LAMC	N23 R11
Division Chief, Operations, NCS, LAMC	N23 R11
EDP Staff Aide, M.C.	57F
EDP Staff Aide, M.C., NCS	57F
EDP Support Analyst II, M.C., NCS	N2 74K
Executive Assistant to Presiding Judges Association	74J
Executive Secretary, M.C.	N3 77E
Executive Secretary, M.C., NCS	N3 77E
Executive Secretary, Marshal	N3 73F
Facilities Planning Assistant, M.C.	67F
Facilities Planning Assistant, M.C., NCS	67F
Facilities Services Assistant, M.C.	61F
Facilities Services Assistant, M.C., NCS	61F
General Maintenance Supervisor, M.C.	66H

General Maintenance Supervisor, M.C., NCS	66H
General Maintenance Worker, M.C.	57E
General Maintenance Worker, M.C., NCS	57E
Graphic Artist, M.C.	63G
Graphic Artist, M.C., NCS	63G
Head, Fiscal and Administrative Services, Marshal	89G
Head, Management Services, Planning and Research	80D
Head, Personnel Technician, M.C., NCS	79G
Head, Personnel Technician, Marshal	79G
Intermediate Accountant, M.C.	75A
Intermediate Accountant, M.C., NCS	75A
Interpreter, M.C., NCS	56A
Judicial Management Intern, M.C., NCS	67K
Law Clerk	73F
Legal Research Assistant, Planning and Research	FH $11.66
Legal Services Specialist, Marshal	56F
Lieutenant, Marshal	91C
Light Vehicle Driver, M.C.	46G
Light Vehicle Driver, M.C., NCS	46G
Light Vehicle Driver, Marshal	45K
Management Secretary, M.C.	N3 67E
Management Secretary, M.C., NCS	N3 67E
Management Secretary II, M.C., NCS	N3 71E
Management Secretary, Marshal	N3 70F
Management Services Specialist, M.C., NCS	NCRT 60B
Managing Court Reporter, NCS, LAMC	N23 R9
Marshal	117L
Marshal's Dispatcher I	57D
Marshal's Dispatcher II	63D
Municipal Court Clerk Trainee	F $2165.65
Municipal Court Judicial Assistant, NCS	NX 67J
Municipal Court Judicial Assistant Trainee, NCS	F $2165.65
Office Services Assistant I, M.C., NCS	N3 49E
Office Services Assistant II, M.C., NCS	52H
Office Services Assistant III, M.C., NCS	55D
Payroll Clerk, Marshal	54C
Payroll Technician, M.C., NCS	59K
Personnel Administrator, NCS, M.C.	N23 R11
Personnel Assistant, M.C.	55J
Personnel Assistant, M.C., NCS	55J
Personnel Assistant, Marshal	55A
Personnel Clerk, M.C.	53K
Personnel Clerk, M.C., NCS	53K
Personnel Technician, Marshal	75G
Personnel Technician, M.C.	75G
Personnel Technician, M.C., NCS	75G
Planning Analyst Aide, Planning and Research	N2 61A

Planning Analyst, Planning and Research	71E
Principal Administrative Assistant, M.C.	71K
Principal Administrative Assistant, M.C., NCS	71K
Principal Assistant, Fiscal Services, Marshal	78F
Principal Budget Analyst, Planning and Research	92G
Principal Clerk, Los Angeles	72H
Principal Clerk, Marshal	61K
Principal Personnel Assistant, M.C.	71G
Principal Personnel Assistant, M.C., NCS	71G
Principal Programmer Analyst, M.C.	84K
Principal Programmer Analyst, M.C., NCS	84K
Procurement Aide, M.C.	55C
Procurement Aide, M.C., NCS	55C
Procurement Assistant I, M.C., NCS	59B
Procurement Assistant II, M.C.	63B
Procurement Assistant II, M.C., NCS	63B
Safety Officer, Marshal	74F
Secretary, Marshal	61E
Secretary, Muni Ct	59E
Secretary, M.C., NCS	59E
Secretary to Presiding Judge, LAMC	N3 79E
Secretary to Presiding Judge, M.C., NCS	N3 79E
Security Officer I, Marshal	F $1435.00
Security Officer II, Marshal	54F
Senior Accountant, M.C.	77J
Senior Accountant, M.C., NCS	77J
Senior Administrative Assistant, M.C.	67K
Senior Administrative Assistant, M.C., NCS	67K
Senior Courtroom Clerk, M.C., NCS	76F
Senior Court Manager, NCS, LAMC	N23 R8
Senior Data Control Clerk, M.C.	52D
Senior Data Conversion Equipment Operator, M.C.	54L
Senior Judicial Secretary, Muni Ct	N3 66E
Senior Judicial Secretary, M.C., NCS	N3 66E
Senior Management Secretary, LAMC	N3 73E
Senior Management Secretary, M.C., NCS	N3 73E
Senior Payroll Clerk, Marshal	57C
Senior Personnel Assistant, M.C.	64J
Senior Personnel Assistant, M.C., NCS	64J
Senior Personnel Assistant, Marshal	64J
Senior Personnel Technician, M.C.	79E
Senior Planning Analyst, Planning and Research	74J
Senior Program and System Analyst, M.C.	N23 R6
Senior Program and System Analyst, M.C., NCS	N23 R6
Senior Programmer Analyst, M.C.	80C
Senior Programmer Analyst, M.C., NCS	80C
Senior Secretary I, Muni Ct	61E
Senior Secretary I, M.C., NCS	61E

Senior Secretary II, Muni Ct	63E
Senior Secretary II, M.C., NCS	63E
Senior Secretary III, Muni Ct	N3 66E
Senior Secretary III, M.C., NCS	N3 66E
Senior Secretary, Marshal	65E
Senior Staff Assistant, Marshal	74G
Senior Systems Aide, M.C., NCS	63F
Senior Telecommunications Systems, Engineer, M.C., NCS	89B
Sergeant, Marshal	84K
Staff Assistant, Marshal	64J
Staff Assistant, Muni Ct	59E
Staff Assistant, M.C., NCS	59E
Staff Attorney I, Planning and Research	N3 75F
Staff Attorney II, Planning and Research	NW 86K
Staff Attorney III, Planning and Research	NW 95K
Staff Development Specialist, Muni Ct	72F
Staff Development Specialist, M.C., NCS	72F
Statistical Analyst, M.C.	61J
Statistical Analyst, M.C., NCS	61J
Stenographer, M.C.	N3-Z 58L
Stenographer, M.C., NCS	N3-Z 58L
Student Professional Worker	FH $7.82
Student Professional Worker, M.C., NCS	FH $7.82
Student Worker	FH $6.47
Student Worker, M.C., NCS	FH $6.47
Supervising Accountant, M.C., NCS	80L
Supervising Branch Clerk	NX 70L
Supervising Computer Operator, M.C.	65A
Supervising Computer Operator, M.C., NCS	65A
Supervising Deputy Clerk I, M.C.	59H
Supervising Deputy Clerk II, M.C.	NX 68B
Supervising Law Clerk	75F
Supervising Law Clerk, M.C., NCS	75F
Supervising Payroll Clerk, Marshal	60C
Supervising Payroll Technician, M.C., NCS	67B
Supply and Reproduction Assistant, Marshal	51C
Supply and Reproduction Supervisor, Marshal	57C
Systems Aide, M.C., NCS	57F
Systems Programmer, M.C.	78C
Systems Programmer, M.C., NCS	78C
Telecommunications Technician, M.C.	66E
Telecommunications Technician, M.C., NCS	66E
Training Officer, NCS, M.C.	N23 R7
Volunteer	W/O Comp.
Warehouse Manager, M.C.	66B
Warehouse Manager, M.C., NCS	66B
Warehouse Worker I, Marshal	53J
Warehouse Worker I, M.C., NCS	54F

Warehouse Worker II, M.C.	58F
Warehouse Worker II, M.C., NCS	58F
Warehouse Worker Aide, M.C., NCS	52F

The term "schedule" as used in this section refers to the salary schedule of the Los Angeles County Code. The term "range" as used in this section refers to the Performance-Based Pay Plan of Los Angeles County.

As defined in Section 6.28.030 of the Los Angeles County Code, the following prefixes are used instead of schedule numbers:

F—Flat rate per month.
FD—Flat rate per day.
FH—Flat rate per hour.

As defined in Section 6.28.040 of the Los Angeles County Code, the following abbreviations are used in conjunction with or instead of schedule or range numbers:

N—Note (refers to notes at end of Section 6.28.050).
W/O Comp.—Without compensation.

"R" or "A" used instead of a schedule number indicates a position's inclusion in the county's Performance-Based Pay Plan. The grade number following the "R" or "A" designation indicates the salary range. Compensation of these positions is in accordance with Sections 6.08.300 to 6.08.380, inclusive, of the Los Angeles County Code.

The term "NCS" as used in the title of a class in this chapter refers to a non-civil service position. Personnel appointed to this class shall serve at the pleasure of the appointing authority and may at any time be removed by the appointing authority.

SEC. 9. Section 72703 of the Government Code is amended to read:

72703. The clerk may appoint:

(a) One chief, systems division; and 11 division chiefs, operations.
(b) Seventeen senior court managers.
(c) Nine principal administrative assistants, municipal court.
(d) One personnel administrator, municipal court.
(e) Four personnel technicians, municipal court.
(f) Six personnel assistants, municipal court.
(g) Fifteen senior administrative assistants, municipal court.
(h) Five administrative assistants, municipal court.
(i) Three accounting technicians, municipal court.
(j) Seven staff assistants, municipal court.
(k) Five accountants, municipal court.
(*l*) Seven intermediate accountants, municipal court.
(m) Four senior accountants, municipal court.
(n) Sixteen account clerks, municipal court.

(o) One assistant capital projects manager, municipal court.
(p) One capital projects manager, municipal court.
(q) One court information officer, municipal court.
(r) Two head personnel technicians, municipal court.
(s) One judicial management intern, municipal court.
(t) One managing court reporter, municipal court.
(u) One personnel clerk, municipal court.
(v) One principal personnel assistant, municipal court.
(w) Three senior personnel assistants, municipal court.
(x) One procurement assistant II, municipal court.
(y) One supervising accountant, municipal court.
(z) One warehouse manager, municipal court.
(aa) Four warehouse workers II, municipal court.
(bb) Three warehouse worker aides, municipal court.
(cc) Thirty-nine court managers, municipal court.
(dd) Two graphic artists, municipal court.
(ee) One assistant payroll technician, municipal court.
(ff) One payroll technician, municipal court.
(gg) One supervising payroll technician, municipal court.
(hh) One warehouse worker I, municipal court.
(ii) One procurement assistant I, municipal court.
(jj) One data systems analyst aide, municipal court.
(kk) One EDP support analyst II, municipal court.
(*ll*) One administrative services manager, M.C., NCS.
(mm) One senior systems aide, municipal court.
(nn) One systems aide, municipal court.
(oo) One management secretary II, municipal court.
(pp) One management services specialist, municipal court.
(qq) One office services assistant I, M.C., NCS.
(rr) One office services assistant II, M.C., NCS.
(ss) One office services assistant III, M.C., NCS.

SEC. 10. Section 72704 of the Government Code is amended to read:

72704. The clerk may also appoint:

(a) One hundred fifty-one deputy clerks IV, plus one additional deputy clerk IV for each judge in excess of 88 and each commissioner or traffic referee in excess of 22 to which the court is or may become entitled by law.

(b) One secretary to the presiding judge.

(c) One executive secretary, Los Angeles Municipal Court.

(d) One senior management secretary, municipal court.

(e) Fourteen senior judicial secretaries who shall receive a monthly salary at the same rate specified for the superior court class of senior judicial secretary. Appointments to the positions shall be at step 3 of the schedule.

(f) One hundred four deputy clerks III.

(g) Three hundred fifty deputy municipal court clerks II.

(h) Eleven senior secretaries II, municipal court.

(i) Six secretaries, municipal court.

(j) Four management secretaries, municipal court.
(k) Three facilities services assistants, municipal court.
(*l*) Two procurement aides, municipal court.
(m) One facilities planning assistant, municipal court.
(n) One statistical analyst.
(o) Three staff development specialists, municipal court.
(p) One municipal court clerk trainee.
(q) Five clerical aides.
(r) Forty-one deputy clerk supervisors.
(s) One general maintenance supervisor, municipal court.
(t) Two general maintenance workers, municipal court.
(u) One court clerk, municipal court.
(v) One municipal court judicial assistant.
(w) One municipal court judicial assistant trainee.
(x) Nineteen student professional workers.
(y) Seventy-three student workers.
(z) One volunteer, M.C.

SEC. 11. Section 72704.5 of the Government Code is amended to read:

72704.5. The clerk may also appoint:
(a) One computer operations supervisor, municipal court.
(b) One data conversion supervisor I, municipal court.
(c) Two senior data conversion equipment operators.
(d) Twenty-four data systems analysts II, municipal court.
(e) Three data systems analysts I, municipal court.
(f) One supervising computer operator, municipal court.
(g) Four computer systems operators, municipal court.
(h) Two computer equipment operators, municipal court.
(i) Two senior data control clerks, municipal court.
(j) Five data control clerks, municipal court.
(k) Twelve data systems coordinators, municipal court.
(*l*) Five senior program and systems analysts.
(m) One principal programmer analyst.
(n) Nine senior programmer analysts, municipal court.
(o) One systems programmer, municipal court.
(p) Two telecommunications technicians.
(q) One senior telecommunications systems engineer, municipal court.
(r) Two data processing specialists I, municipal court.
(s) One EDP staff aide, municipal court.

SEC. 11.1. Section 72706 of the Government Code is amended to read:

72706. In lieu of any position established for a court in this chapter, and to meet the needs of that court, the court administrator may appoint additional deputy clerks to any appropriate classification and title set forth in Los Angeles County Ordinance 6222 (Title 6, Los Angeles County Code) or in Section 72609, provided, however, that a nonjudicial budgeted position of an equal or greater pay level is encumbered.

SEC. 11.5. Section 72708.5 of the Government Code is amended to read:

72708.5. The judges of the court may appoint as many interpreters, not exceeding two, and as many law clerks, not exceeding 14, as the business of the court may require. Two of the law clerks may be appointed supervising law clerks. Employees appointed pursuant to this section shall hold office at the pleasure of the judges and shall receive the same compensation as is paid to the respective class of employees in the Superior Court of Los Angeles County. They shall be members of any retirement system which includes attachés of the court.

SEC. 12. Section 72755 of the Government Code is amended to read:

72755. In those positions for which this article provides a multistep rate of compensation, this section shall apply.

(a) Except in the case of transfer, demotion, promotion or where otherwise specifically provided, original appointments to these positions shall be at the rate designated for step 1 of the salary schedule pertaining to the position occupied.

(b) The initial rate of compensation shall be increased to the next higher step of the schedule applicable to the position occupied upon the completion of six months' continuous service in the same position. Upon the completion of each ensuing 12 months of service, the compensation shall be increased to the rate specified in the next higher step of the salary schedule for the position occupied until the compensation equals the sum specified in the highest step of that schedule.

(c) A person for whom an "unsatisfactory" or "improvement needed" performance evaluation has been filed with the county director of personnel shall not be granted a step advancement in the position held when the rating was given until a "competent" or better rating is filed.

(d) When a person is promoted to a position on a multistep basis, he or she shall receive the lowest step rate in the salary schedule of the new position which results in an increase in salary. However, when the increase in salary is less than the equivalent of a one-schedule increase in salary, the person shall be placed on the next higher step of the position to which he or she is appointed. Step advancements thereafter shall be as otherwise provided in this section.

(e) When the increase in salary provided for in subdivision (d) is at least equivalent to a one-schedule increase in salary, but less than the equivalent of a two-schedule increase in salary, the person shall be entitled to advance to the next higher step of the position to which he or she was appointed in one-half of the time otherwise required. Step advancements thereafter shall be as otherwise provided.

(f) A person demoted to a lower position shall be entitled to receive whichever of the following rates is lower:

(1) The highest step of the salary schedule pertaining to the

position to which he or she is demoted.

(2) The same rate of pay which he or she was receiving prior to demotion.

(g) The appointing power who demotes a person for disciplinary reasons may specify any step rate in the salary schedule pertaining to the lower position except that it shall not be higher than the step rate held by the employee in the higher position.

(h) If a person begins employment between the 1st and 15th of any calendar month, inclusive, his or her step advancement shall be calculated from the first day of that month. Where a person begins employment on or after the 16th day of a calendar month, the step advancement shall be calculated from the first of the next month.

(i) Upon demotion, a person shall retain the anniversary date held in the higher position.

(j) Any deputy clerk III, M.C. who is necessarily assigned to the regular duties of a deputy clerk IV, M.C. or court clerk, M.C. because of an absence of a deputy clerk IV, M.C. or court clerk, M.C. shall, for any period of that assignment in excess of 30 calendar days, receive compensation at the rate of that higher numbered salary schedule which will increase his or her basic compensation by four schedules.

(k) One deputy municipal court clerk I, deputy municipal court clerk II, or deputy clerk III, M.C. in each municipal court of six judges or fewer, who having met the stenographic skills proficiency qualification required by the County of Los Angeles for the county position of stenographer, shall be entitled to receive a four-schedule increase in salary when regularly required to provide stenographic and secretarial services to the judge or judges of the court.

(*l*) Not more than one deputy clerk IV, M.C. or court clerk, M.C. in each municipal court having six judges or fewer, or a total of two deputy clerks IV, M.C. or court clerks, M.C. in each municipal court having seven judges or more, while assigned to duties in divisions of the court requiring greater skill and responsibility, shall receive a two-schedule increase in salary.

(m) Not more than a total of two deputy municipal court clerks I, deputy municipal court clerks II, or deputy clerks III, M.C. in each municipal court, while assigned to duties in divisions of the court requiring greater skill and responsibility, shall receive a two-schedule increase in compensation while so assigned. However, in no event shall a deputy clerk who is receiving additional compensation pursuant to subdivision (k) receive the compensation prescribed by this subdivision.

SEC. 13. Section 72764 of the Government Code is amended to read:

72764. In the Beverly Hills Municipal Court District, the officers and attachés shall be appointed as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of the court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:
(1) Seven deputy municipal court clerks I.
(2) Eleven deputy municipal court clerks II.
(3) Four deputy clerks III, M.C.
(4) Six deputy clerks IV, M.C.
(5) One student worker.
(6) One administrative assistant, M.C.
(7) One data systems analyst I, M.C.
(8) One management secretary, M.C.
(9) Three student professional workers.
(10) One chief deputy clerk.
(11) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court. Any person appointed to this position shall serve at the pleasure of the court administrator and shall acquire no civil service status.

SEC. 14. Section 72771 of the Government Code is amended to read:

72771. In the Glendale Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of the court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:
(1) Fifteen deputy municipal court clerks II.
(2) Five deputy clerks III, M.C.
(3) Seven court clerks, M.C.
(4) One principal administrative assistant, M.C.
(5) One senior secretary II, Muni Ct.
(6) Two supervising deputy clerks I, M.C.
(7) One accountant, M.C.
(8) Three student workers.
(9) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 15. Section 72771.1 of the Government Code is amended to read:

72771.1. Notwithstanding Section 72604, in the Glendale Municipal Court District, official reporters shall be appointed as follows:

(a) The judges may appoint as many phonographic reporters, not exceeding four, as the business of the court may require. The reporters shall be known as official reporters and shall serve at the pleasure of the judges of the court.

(b) In lieu of any other compensation provided by law for his or her services in reporting testimony and proceedings in the court, each official reporter shall receive the same monthly salary and benefits received by official reporters of the Los Angeles Municipal Court District, pursuant to Section 72709. Fees for transcription shall

be as provided in Article 9 (commencing with Section 69941) of Chapter 5.

SEC. 16. Section 72778 of the Government Code is amended to read:

72778. In the Pomona Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of the court and who shall hold office at the pleasure of the judges of that court.

(b) The clerk may appoint:

(1) Ten deputy municipal court clerks I.
(2) Eleven deputy municipal court clerks II.
(3) Ten deputy clerks III, M.C.
(4) Nine court clerks, M.C.
(5) One student professional worker.
(6) Four student workers.
(7) One assistant chief deputy clerk, M.C.
(8) One staff assistant, Muni Ct.
(9) One assistant court administrator who shall receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 17. Section 72782 of the Government Code is amended to read:

72782. In the South Bay Municipal Court District, the officers and attachés shall be appointed, as follows:

(a) There is one court administrator who shall be the clerk appointed by the judges of the court and who shall hold office at the pleasure of the judges of that court.

(b) The court administrator may appoint:

(1) Eight deputy municipal court clerks I.
(2) Seventeen deputy municipal court clerks II.
(3) Thirty deputy clerks III, M.C.
(4) Fourteen deputy clerks IV, M.C.
(5) Two deputy clerks, accountant, M.C.
(6) One deputy clerk, administrative assistant, M.C.
(7) Four assistant chief deputy clerks, M.C.
(8) One deputy clerk, data systems analyst I, M.C.
(9) One deputy clerk, senior personnel assistant, M.C.
(10) One deputy clerk, senior judicial secretary, Muni Ct.
(11) One deputy clerk, senior secretary III, Muni Ct.
(12) Four student workers.
(13) Two general maintenance workers, M.C., NCS.
(14) Seven supervising deputy clerks I, M.C.
(15) Four student professional workers.
(16) One deputy clerk, accounting officer II.
(17) Five custodians, NC.
(18) One general maintenance supervisor, M.C., NCS.
(19) Four deputy clerks, principal clerk, Los Angeles.
(20) One deputy clerk, assistant court administrator, who shall

receive a monthly salary eight schedules less than the schedule specified for the court administrator of that court.

SEC. 18. Section 73346 of the Government Code is repealed.

SEC. 19. Section 73347 of the Government Code is amended to read:

73347. The official reporters of the court shall be members of any retirement system maintained by the county. For the purposes of that retirement system, the salary provided for reporters in this article shall be deemed their entire compensation.

SEC. 20. Section 73348 of the Government Code is amended to read:

73348. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a four-step salary plan with one-year increments. Effective January 1, 1994, the four salary steps are as follows:

Step 1. Forty-six thousand one hundred sixty-four dollars ($46,164).

Step 2. Forty-eight thousand four hundred sixty-eight dollars ($48,468).

Step 3. Fifty thousand eight hundred ninety-two dollars ($50,892).

Step 4. Fifty-three thousand four hundred thirty-six dollars ($53,436).

The step of entry to the above schedule shall be Step 1. However, the judges of the court may appoint a court reporter to a duly allocated exempt position at a higher step if, in the opinion of the appointing judge, an individual to be appointed has the experience and qualifications to entitle that individual to the higher initial step, and if the higher initial salary has the approval of the presiding judge of the court and the board of supervisors, but in no case may the initial salary be above the third step of the salary range. Except as provided below, official reporters shall advance to the next higher step on the salary plan annually. The compensation of each official reporter pro tempore shall be an amount which is equivalent to 1.05 times the daily wage of the fourth step in the salary range for full-time official reporters in Contra Costa County for each day the reporter actually is on duty under order of the court which per diem rate shall apply when an official reporter is appointed pursuant to Section 869 of the Penal Code.

Irrespective of the step of the salary range to which initially appointed, an official court reporter shall be eligible for advancement to the next higher step in the salary range after six months' service, and thereafter shall advance on the salary range based on annual reviews.

(b) During the hours which the court is open for the transaction of judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him or her by law, he or she shall render stenographic or clerical assistance to the judge of the court to which he or she is assigned as the judge may direct.

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. The adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, secretary, and clerk (experienced level). The reporter salary adjustment shall be effective on the same day as the effective date of the board's action as to all of the aforesaid county classifications, but for official reporters of each municipal court district shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made. The compensation of each official reporter pro tempore shall remain at the rate specified in subdivision (a) for the days he or she actually is on duty until changed by the board of supervisors at the same time and on the same basis as regular official reporters.

SEC. 21. Section 73351 of the Government Code is amended to read:

73351. There are the following classes of positions into which each of the positions of the municipal courts shall be assigned as prescribed in the section pertaining to each court:

(a) Deputy clerk-beginning level, which shall include all municipal court employments assigned routine clerical tasks under continuous immediate supervision.

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

(c) Deputy clerk-experienced level, which shall include all municipal court employments assigned clerical tasks requiring exercise of discretion as to methods and priorities and for which supervision is available on a periodic basis only.

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

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

(f) Deputy clerk-specialist level, which shall include all municipal court employments assigned lead direction of a work unit or assigned clerical duties of a complex administrative nature, requiring exercise of initiative and discretion in work organization, methods, and priorities.

(g) Deputy clerk-courtroom clerk, which shall include all municipal court employments assigned clerical duties involving responsibility for keeping the minutes of court proceedings and the

processing and maintenance of a variety of documents and records.

(h) Municipal court division supervisor, which shall include all municipal court employments assigned responsibility for planning, organizing, and directing the clerical activities of a division in a municipal court including the supervision of clerical staff.

(i) Court operations coordinator I and II, which shall include implementation of the calendar management and trial court delay reduction program, as directed by the judges, supervisory and management duties associated with the calendar management and trial court delay reduction program, and being responsible for court operations in the absence of the district court manager. Chief deputy clerks holding the position on January 1, 1989, shall be titled court operations coordinator II.

(j) District court manager, which shall include any municipal court position charged with the overall responsibility for managing and supervising court clerical operations including courtroom duties. District court manager III has administrative responsibility for nonjudicial staff in two districts. District court manager II is assigned to a court with five judges or more. District court manager I is assigned to a court with no more than four judges.

(k) Court probation officer, which shall include all municipal court employments assigned to exercise the same powers and duties of deputy probation officers with respect to the business of the court.

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

(m) Municipal court program assistant, which shall be assigned to serve as the confidential secretary to the county municipal court administrator.

(n) County municipal court administrator, which shall be responsible for the overall administration of all municipal court judicial districts in the county.

(o) Municipal court systems and facilities manager, which shall be responsible for managing the development, implementation, and enhancement of court systems, and related work as required.

(p) Municipal court fiscal and administrative manager, which shall be responsible for planning, reviewing, and coordinating fiscal and accounting activities of the county's municipal courts, and related work as required.

(q) Municipal court operations and training manager, which shall be responsible for planning, reviewing, and coordinating training and educational activities of the county's municipal courts, and related work as required.

(r) Municipal court management analyst, which shall be responsible under general direction for planning, developing, and implementing projects and assignments for the county's municipal courts, and related work as required.

(s) Municipal court accounting specialist, which shall be responsible for assisting the municipal court fiscal and administrative

manager with departmental budgetary and accounting activities, and for coordinating the day-to-day activities of the court collections unit.

(t) Municipal court collection agent, which shall be responsible for intensive collection efforts on delinquent court accounts.

The board of supervisors may create a new class or classes by specifying the number of positions for each new class and the compensation therefor, provided that the new class or classes shall be effective only until January 1 of the second year following the calendar year in which the classes are created, unless the change has been incorporated into this article.

SEC. 22. Section 73352 of the Government Code is amended to read:

73352. Whenever reference is made to a numbered salary level in any section of this article, the salary schedule applicable to equivalent employees of Contra Costa County as set forth in Section 73354 shall apply. If the board of supervisors adopts a revised salary schedule for equivalent county employees, the new schedule shall apply equally to municipal courts and conversion to the new schedule shall be effected for employees of the municipal courts in the same manner and on the same date as for county employees, but any adjustment shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made, unless the change has been incorporated into this article.

SEC. 23. Section 73353 of the Government Code is amended to read:

73353. Effective January 1, 1994, classes of positions provided in Section 73351 are allocated to the salary schedule as follows:

Class Title	Salary Schedule	Pay Level
Deputy Clerk-Beginning Level	C5-1249	1584-1925
Deputy Clerk-Experienced Level	C5-1394	1831-2226
Deputy Clerk-Senior Level	XB-1553	2044-2609
Deputy Clerk-Specialist Level	XC-1654	2261-2886
Deputy Clerk-DEO I	C5-1317	1695-2061
Deputy Clerk-DEO II	C5-1414	1868-2270
Deputy Clerk-Courtroom Clerk	C5-1816	2792-3393
Court Operations Coordinator II	C5-2083	3646-4431
Court Operations Coordinator I	C5-1986	3309-4022
District Court Manager III	C1-2412	6156 F
District Court Manager II	C5-2302	4538-5515
District Court Manager I	C5-2162	3945-4795
Court Probation Officer	C5-1915	3082-3746
Municipal Court Collection Agent	C5-1662	2393-2909
Municipal Court Accounting Specialist	XB-1755	2499-3192
Municipal Court Division Supervisor	C5-1841	2862-3479
Municipal Court Program Assistant	C5-1847	2880-3500
Municipal Court Operations and Train-		

ing Manager	C5-2033	3468-4215
Municipal Court Management Analyst	C5-2107	3734-4539
Municipal Court Systems and Facilities Manager	C5-2176	4001-4863
Municipal Court Fiscal and Administrative Manager	C5-2199	4094-4976
County Municipal Court Administrator	C1-2573	7231 F

SEC. 24. Section 73353.2 of the Government Code is amended to read:

73353.2. The Contra Costa County Board of Supervisors may adopt a resolution establishing a pay-for-performance bonus as defined in subdivision (d). Such a resolution shall state that the bonus program shall be funded by the county solely out of county funds, that the compensation is not a "court operation" for purposes of Sections 77003 and 77204, that the payment of the compensation shall not be a state obligation under the Brown-Presley Trial Court Funding Act, the Trial Court Realignment and Efficiency Act of 1991, or any other related measure, and that the county agrees not to seek funding from the state for the payment of the authorized compensation. If such a resolution is adopted:

(a) At six-month intervals, on January 1 and July 1 of each calendar year, the County Municipal Court Administrator shall conduct assessments of all permanent employees in the classes of District Court Manager I, District Court Manager II, District Court Manager III, Court Operations Coordinator I, Court Operations Coordinator II, and Municipal Court Division Supervisor, for the purpose of determining eligibility for receipt of a pay-for-performance bonus.

(b) The appointing authority for the position of Municipal Court Administrator shall conduct an assessment on each January 1 and July 1 for the purpose of determining eligibility for receipt of a pay-for-performance bonus.

(c) The employees described in subdivisions (a) and (b) who are determined eligible for a pay-for-performance bonus at the semiannual review may be awarded that bonus. No pay-for-performance bonus may be awarded for a period longer than six months from the date of the semiannual review. Performance must be reevaluated each six months and reauthorization approved pursuant to subdivisions (a) and (b) for any bonus to continue.

(d) "Pay-for-performance bonus," as used in this section, means a monthly bonus, based on performance, equal to either 2.5 percent or 5 percent of the employee's monthly base pay as of the date of the semiannual review, to be awarded for up to a six-month period.

SEC. 25. Section 73354 of the Government Code is amended to read:

73354. Certain classifications in the municipal courts are deemed to be equivalent in job and salary level to certain classifications in the service of Contra Costa County and whenever the salary of a

classification in the service of Contra Costa County is adjusted by the board of supervisors, the salary of the comparable classification in the municipal courts shall be adjusted a commensurate number of levels on the salary schedule. The adjustment shall be effective on the same day as the effective date of the action by the board of supervisors as it applies to the county classifications, but the adjustment shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made, unless the change has been incorporated into Article 2 (commencing with Section 73340) of Chapter 10.

(a) The individual court class and equivalent county class or relationship are as follows:

Court Class	Equivalent County Class
Deputy Clerk-Beginning	3% above Clerk-Beginning
Deputy Clerk-Experienced	1% below Clerk-Experienced
Deputy Clerk-Senior	Clerk-Senior
Deputy Clerk-Specialist	Clerk-Specialist
Deputy Clerk-DEO I	Data Entry Operator I
Deputy Clerk-DEO II	Data Entry Operator II
Court Probation Officer	Deputy Probation Officer III
Municipal Court Reporter	Superior Court Reporter
Deputy Clerk-Courtroom Clerk	4.8% below Superior Court Clerk

(b) The municipal court classes listed below are designated management classes and are eligible for all of the compensation and benefit considerations that the board of supervisors may extend to county management employees. Whenever the board of supervisors adopts a general salary adjustment for county management classes, the respective salary schedules of municipal court management classes shall be adjusted by an equivalent percentage amount. In no event shall the salary of Municipal Court Division Supervisor be less than 2.5 percent above the salary of Deputy Clerk-Courtroom Clerk.

Management Positions:

Municipal Court Division Supervisor
Court Operations Coordinator II
Court Operations Coordinator I
District Court Manager III
District Court Manager II
District Court Manager I
Municipal Court Program Assistant
Municipal Court Operations and Training Manager
Municipal Court Management Analyst
Municipal Court Systems and Facilities Manager
Municipal Court Fiscal and Administrative Manager
County Municipal Court Administrator

(c) The class of court probation officer shall be allocated to a five-step salary schedule in 5 percent incremental steps with the top step equivalent to the top step of deputy probation officer III. Upon appointment, a new court probation officer shall be allocated to the first step of the salary schedule, except that an appointee with exceptionally high qualifications and experience may be appointed at a higher step with the board of supervisors' approval.

(d) The class of court commissioner shall be allocated to a three-step salary schedule, in 5 percent incremental steps with the third step equivalent to 85 percent of the salary of a municipal court judge in the County of Contra Costa. Upon appointment, a new court commissioner shall be allocated to the first step of the schedule, except that an appointee with exceptionally high qualifications and experience may be appointed at a higher step with the board of supervisors' approval.

SEC. 26. Section 73355 of the Government Code is amended to read:

73355. There shall be one county municipal court administrator for Contra Costa County who shall serve as the clerk of the court for each judicial district and shall be appointed by a majority of the municipal court judges of Contra Costa County. Except as provided in Sections 73348 and 73356, the county municipal court administrator shall appoint all other employments in the municipal court offices of the judicial districts in Contra Costa County. Such positions shall serve as deputy clerks, with full statutory authority, in addition to other duties set forth in Section 73351.

SEC. 27. Section 73356 of the Government Code is amended to read:

73356. Certain classifications in the municipal courts are excluded from the merit system.

(a) A majority of the municipal court judges in Contra Costa County shall appoint the county municipal court administrator, whose position shall be exempt from the merit system. The county municipal court administrator shall serve at the pleasure of the judges, and may be removed by a majority of the municipal court judges at their discretion.

(b) Appointment to the classification of court commissioner shall be made in accordance with Section 73362.

SEC. 28. Section 73357 of the Government Code is amended to read:

73357. Municipal court judicial districts in the County of Contra Costa may have no more than four court probation officers for all districts in total. Court probation officers shall be appointed by a majority of the judges of the court, or by the presiding judge in a two-judge court, to which the court probation officer is appointed. These positions report directly to the judges of the district to which they are appointed. Within the jurisdiction of the court and under the direction of the judges, court probation officers shall exercise all of the powers and perform all of the duties of a deputy probation

officer as prescribed by law.

SEC. 29. Section 73358 of the Government Code is amended to read:

73358. The total number of positions authorized for operation of municipal courts in Contra Costa County is as follows:

Class Title	Number of Positions
Deputy clerk-(deep class), including beginning, experienced, senior, and specialist levels	230
Deputy clerk-DEO I or II	26
Deputy clerk-courtroom clerk	18
Court operations coordinator II	2
Court operations coordinator I	2
District court manager III	1
District court manager II	2
District court manager I	1
Court probation officer	4
Municipal court division supervisor	15
Municipal court accounting specialist	1
Municipal court collections agent	2
Municipal court program assistant	1
Municipal court operations and training manager	1
Municipal court management analyst	1
Municipal court systems and facilities manager	1
Municipal court fiscal and administrative manager	1
County municipal court administrator	1

SEC. 30. Section 73362 of the Government Code is amended to read:

73362. Municipal court judicial districts in the County of Contra Costa may have no more than four court commissioners for all districts in total. Commissioners shall be appointed by a majority of the judges of the court or courts, or by the presiding judge in a two-judge court, to which the court commissioner is appointed. Commissioners shall serve at the pleasure of the majority of the judges in the court or courts or at the pleasure of the presiding judge in a two-judge court and may be removed by a majority of the judges at their discretion. Within the jurisdiction of the court or courts and under the direction of the judges, commissioners shall exercise all the powers and perform all of the duties authorized by law to be performed by commissioners of superior courts and any additional powers and duties as may be prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the court with respect to any infraction or small claims action. The commissioners shall possess the same qualifications the law requires of a municipal court judge and shall not engage in the private practice of law. They shall be ex officio deputy clerks.

SEC. 31. Section 73433 of the Government Code is amended to read:

73433. There shall be one clerk-administrator in each municipal court who shall be appointed by and serve at the pleasure of a majority of the judges of the court to which the clerk-administrator is appointed. In a court with less than three judges, the presiding judge shall appoint the clerk-administrator of the court. The clerk-administrator of the East Kern Municipal Court shall receive the biweekly salary specified in range 54.5 of the salary schedule. The clerk-administrator of the North Kern Municipal Court shall receive the biweekly salary specified in range 54.5 of the salary schedule. The clerk-administrator of the South Kern Municipal Court shall receive the biweekly salary specified in range 54.5 of the salary schedule. The clerk-administrator of the Bakersfield Municipal Court shall receive the biweekly salary specified in range 60.8 of the salary schedule.

SEC. 32. Section 73435 of the Government Code is amended to read:

73435. The clerk-administrator of the Bakersfield Municipal Court may appoint:

(a) Three chief deputy municipal court clerks who shall act as the supervisors of the civil, criminal, and traffic divisions of the court and each of whom shall receive the biweekly salary specified in range 48.8 of the salary schedule.

(b) Seven senior deputy municipal court clerks, each of whom shall receive the biweekly salary specified in range 46.7 of the salary schedule.

(c) One supervising courtroom clerk, who shall supervise the deputy municipal courtroom clerks and who shall receive the biweekly salary specified in range 48.8 of the salary schedule.

(d) Nineteen deputy municipal courtroom clerks II or deputy municipal courtroom clerks I, each of whom shall receive the biweekly salary specified in ranges 46.6 and 43.0, respectively, of the salary schedule.

Deputy municipal courtroom clerk I shall be the entrance position to deputy municipal courtroom clerk II. The clerk-administrator, with the concurrence of the presiding judge, may advance any deputy municipal courtroom clerk I to the position of deputy municipal courtroom clerk II without further examination, if the deputy municipal courtroom clerk I has served for six months and otherwise meets the qualifications for deputy municipal courtroom clerk II and if the presiding judge is satisfied with the deputy municipal courtroom clerk I's performance during the six-month period.

(e) Three data entry operators II or I, each of whom shall receive the biweekly salary specified in ranges 38.6 and 36.6, respectively, of the salary schedule. Data entry operator I shall be the entrance position to the data entry operator series. The clerk-administrator may advance any data entry operator I to the position of data entry operator II without further examination if the data entry operator I

has served for one year and otherwise meets the qualifications for data entry operator II.

(f) Forty-seven full-time deputy municipal court clerks II or I, each of whom shall receive the biweekly salary specified in ranges 42.9 and 40.6, respectively, of the salary schedule.

Deputy municipal court clerk I shall be the entrance position to the clerk's staff. The clerk-administrator may advance any deputy municipal court clerk I to the position of deputy municipal court clerk II without further examination if the deputy municipal court clerk I has served for six months and otherwise meets the qualifications for deputy municipal court clerk II.

(g) One senior secretary who shall receive the biweekly salary specified in range 43.7 of the salary schedule.

(h) One judicial secretary who shall receive the biweekly salary specified in range 45.1 of the salary schedule.

(i) One accountant II or I who shall receive the biweekly salary specified in ranges 49.9 and 47.2, respectively, of the salary schedule. Accountant I shall be the entrance position to the accountant series. The clerk-administrator may advance the accountant I to the position of accountant II without further examination if the accountant I has served for one year and otherwise meets the qualifications of accountant II.

(j) Two court services technicians, each of whom shall receive the biweekly salary specified in range 42.9 of the salary schedule.

(k) Two administrative clerks, each of whom shall receive the biweekly salary specified in range 41.8 of the salary schedule.

(*l*) One microphotographer who shall receive the biweekly salary specified in range 39.5 of the salary schedule.

(m) One administrative services officer who shall receive the biweekly salary specified in range 56.4 of the salary schedule.

(n) One department systems coordinator who shall receive the biweekly salary specified in range 52.6 of the salary schedule.

(o) One senior microphotographer who shall receive the biweekly salary specified in range 43.7 of the salary schedule.

(p) Five court reporters who shall receive the biweekly salary specified in range 54.6 of the salary schedule.

(q) One director of collections who shall receive the biweekly salary specified in range 55.6 of the salary schedule.

SEC. 34. Section 73436 of the Government Code is amended to read:

73436. The clerk-administrator of the East Kern Municipal Court may appoint:

(a) Two regional chief municipal court clerks who shall act as the supervisors of the branches of the court and each of whom shall receive the biweekly salary specified in range 48.8 of the salary schedule.

(b) Six regional senior deputy municipal court clerks, each of whom shall receive the biweekly salary specified in range 46.7 of the salary schedule.

(c) Eighteen regional municipal court clerks III, II, I, each of whom shall receive the biweekly salary specified in ranges 45.0, 42.9, and 40.6, respectively, of the salary schedule.

Regional municipal court clerk I shall be the entrance position to the clerk's staff. The clerk-administrator may advance any regional municipal court clerk I to the position of regional municipal court clerk II without further examination if the regional municipal court clerk I has served for six months and otherwise meets the qualifications for regional municipal court clerk II.

(d) One account clerk III who shall receive the biweekly salary specified in range 40.8 of the salary schedule.

(e) One court reporter who shall receive the biweekly salary specified in range 54.6 of the salary schedule.

SEC. 35. Section 73436.1 of the Government Code is amended to read:

73436.1. The clerk-administrator of the North Kern Municipal Court may appoint:

(a) Two regional chief municipal court clerks who shall act as the supervisors of the branches of the court and each of whom shall receive the biweekly salary specified in range 48.8 of the salary schedule.

(b) Two regional senior deputy municipal court clerks, each of whom shall receive the biweekly salary specified in range 46.7 of the salary schedule.

(c) Eighteen regional municipal court clerks III, II, or I, each of whom shall receive the biweekly salary specified in ranges 45.0, 42.9, and 40.6, respectively, of the salary schedule.

The position of regional municipal court clerk I shall be the entrance position to the clerk's staff. The clerk-administrator may advance any regional municipal court clerk I to the position of regional municipal court clerk II without further examination, if the regional municipal court clerk I has served for six months and otherwise meets the qualifications for regional municipal court clerk II.

(d) One court reporter who shall receive the biweekly salary specified in range 54.6 of the salary schedule.

SEC. 36. Section 73436.2 of the Government Code is amended to read:

73436.2. The clerk-administrator of the South Kern Municipal Court may appoint:

(a) One assistant clerk-administrator who shall act as the supervisor of the branches of the court and who shall receive the biweekly salary specified in range 50.5 of the salary schedule.

(b) One regional chief municipal court clerk who shall act as the supervisor of the branches of the court and who shall receive the biweekly salary specified in range 48.8 of the salary schedule.

(c) Two regional senior deputy municipal court clerks, each of whom shall receive the biweekly salary specified in range 46.7 of the salary schedule.

(d) Eighteen regional municipal court clerks III, II, or I, each of whom shall receive the biweekly salary specified in ranges 45.0, 42.9, and 40.6, respectively, of the salary schedule.

The position of regional municipal court clerk I shall be the entrance position to the clerk's staff. The clerk-administrator may advance any regional municipal court clerk I to the position of regional municipal court clerk II without further examination, if the regional municipal court clerk I has served for six months and otherwise meets the qualifications for regional municipal court clerk II.

(e) One account clerk IV who shall receive the biweekly salary specified in range 49.6 of the salary schedule.

(f) One court interpreter who shall receive the biweekly salary specified in range 42.9 of the salary schedule.

(g) One court reporter who shall receive the biweekly salary specified in range 54.6 of the salary schedule.

SEC. 37. Section 73437 of the Government Code is amended to read:

73437. (a) Whenever reference to a numbered salary range of the salary schedule is made in any section of this article, the schedule of salary ranges found in the salary ordinance of the County of Kern in effect on January 1, 1994, shall apply. The employees of the municipal courts shall be paid biweekly pursuant to the payroll procedures in effect in the County of Kern.

(b) The minimum salary for each position shall normally be "step A" for the position. If it is difficult to secure qualified personnel at that step or if a person of unusual qualifications is engaged, the court or the clerk-administrator may hire at any step of the salary range applicable to the position.

(c) Any employee who is promoted or whose position is reclassified from one class position to a higher class position shall be placed in the step level of the higher class salary range which most closely approximates a one-step increase from the former position, except that such increase shall not exceed an amount equivalent to 1.4 steps in the salary schedule. In the event the "A" step of the higher class position is greater than a 1.4-step increase over the salary of the employee in the lower class position, the employee shall be placed at the "A" step in the salary range of the higher class position.

(d) The Board of Supervisors of the County of Kern may adjust the salaries paid to employees of the municipal courts as part of its county employee compensation plan. Such adjustment shall be effective on the same date as the effective date of the action of the board of supervisors to adjust compensation of other county employees. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

(e) In addition to the compensation provided in this article, the attachés of the municipal court shall receive, and they shall be entitled to, the same vacations, sick leaves, and similar privileges and

benefits as are now or may hereafter be provided for the employees of the County of Kern, including the right to participate in any group, accident, health or life insurance plan adopted by the Board of Supervisors of the County of Kern.

SEC. 38. Section 73440 of the Government Code is amended to read:

73440. Official reporters in the municipal courts shall be appointed pursuant to Section 72194 and in lieu of any other compensation provided by law for their services in reporting testimony and proceedings in such court, shall receive a salary in the same sum as is paid the official reporters of the superior court in Kern County, which shall be the biweekly salary specified in range 54.6 of the salary schedule.

Each pro tempore official reporter shall be paid one hundred dollars ($100) a day for the days he or she is actually on duty under order of the court. Official reporters shall be paid biweekly pursuant to payroll procedures in effect in the County of Kern. Official reporters in the municipal courts shall also be entitled to and shall receive, on the same basis as other county employees, the same benefits and privileges with respect to retirement, group insurance, sick leave, and vacation. Court reporters shall observe the same holidays as other court employees. For the purpose of determining participation in the county retirement system, the salary provided for such reporters in Sections 73435, 73436, 73436.1, and 73436.2 shall be deemed their entire compensation.

SEC. 39. Section 73644 of the Government Code is amended to read:

73644. The court administrator may appoint the following personnel:

(a) One assistant court administrator. The assistant court administrator shall serve as the assistant clerk of the court and shall receive a biweekly salary within the biweekly rate range ES-10 indicated in the Compensation Ordinance of the County of San Diego. The biweekly salary, and any advancement or reduction within the range, shall be determined in accordance with the provisions set forth under Article 3.5 of the Compensation Ordinance of the County of San Diego and of subdivision (a) of Section 74345, except that any reference to "executive compensation committee" or "chief administrative officer" in Article 3.5 of the Compensation Ordinance of the County of San Diego shall be interpreted as "the court administrator."

(b) One deputy clerk-administrative assistant I, II, III or deputy clerk-administrative services manager I or II as the case may be. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for administrative assistant I in the classified service of the County of San Diego. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for administrative assistant II in the classified service of the County of San Diego. A deputy

clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for administrative assistant III in the classified service of the County of San Diego. A deputy clerk-administrative services manager I shall receive a biweekly salary at a rate equal to that specified for administrative services manager I in the classified service of the County of San Diego. A deputy clerk-administrative services manager II shall receive a biweekly salary at a rate equal to that specified for administrative services manager II in the classified service of the County of San Diego.

(c) Three deputy clerk-division managers III each of whom shall receive a biweekly salary at a rate 24.5 percent higher than that specified for deputy clerk-division manager II of the San Diego Judicial District.

(d) Five deputy clerk-division managers I or II, as the case may be. A division manager I shall receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V of the San Diego Judicial District. A division manager II shall receive a biweekly salary at a rate 15.5 percent higher than that specified for deputy clerk V of the San Diego Judicial District.

(e) Sixteen deputy clerks IV. Each of the deputy clerks IV shall receive a biweekly salary at a rate equal to the greater of that specified for superior court clerk in the superior court service of the County of San Diego or 19.95 percent higher than that specified for deputy clerk III. One deputy clerk IV who is assigned to the presiding judge in the master calendar department shall receive a biweekly salary at a rate of 5 percent higher than that specified for the deputy clerk IV. This increased biweekly rate shall apply only during the period of this assignment and shall not apply to paid time off or to terminal payoff.

(f) Seventy-five deputy clerks III, II, I, deputy clerk-intermediate clerk typists, or deputy clerk-junior clerk typists, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk III in the classified service of the County of San Diego. Each of the deputy clerks II shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk II in the classified service of the County of San Diego. Each of the deputy clerks I shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk I in the classified service of the County of San Diego. At the discretion of the court administrator, appointments to deputy clerk I may be at any step within the salary range. Up to four of these positions may be filled at the level of deputy clerk-intermediate clerk typist, or deputy clerk-junior clerk typist. A deputy clerk-intermediate clerk typist shall receive a biweekly salary at a rate equal to that specified for intermediate clerk typist in the classified service of the County of San Diego. A deputy clerk-junior clerk typist shall receive a biweekly salary at a rate equal to that specified for junior clerk typist in the classified service of the County of San Diego.

(g) Four deputy clerk-data entry operators. No more than two of the deputy clerk-data entry operator positions may be filled at the deputy clerk-senior data entry operator level. Each of the deputy clerk-data entry operators shall receive a biweekly salary at a rate equal to that specified for data entry operator in the classified service of the County of San Diego. Each of the deputy clerk-senior data entry operators shall receive a biweekly salary at a rate equal to that specified for senior data entry operator in the classified service of the County of San Diego.

(h) One deputy clerk-municipal court secretary who shall receive a biweekly salary at a rate equal to that specified for confidential legal secretary III in the classified service of the County of San Diego. At the discretion of the court administrator appointment to the deputy clerk-municipal court secretary may be at any step within the salary range.

(i) Three deputy clerk-court interpreters who shall receive a biweekly salary at a rate equal to that specified for superior court clerk interpreter in the superior court service of the County of San Diego.

(j) One deputy clerk-research attorney I, deputy clerk-research attorney II, or deputy clerk-law clerk, as the case may be. A deputy clerk-research attorney I shall receive a biweekly salary equal to that specified for a deputy county counsel I in the classified service of the County of San Diego. A deputy clerk-research attorney II shall receive a biweekly salary equal to that specified for a deputy county counsel II in the classified service of the County of San Diego. A deputy clerk-law clerk shall receive a biweekly salary at a rate equal to that specified for a law clerk in the classified service of the County of San Diego.

(k) One deputy clerk-research attorney III who shall receive a biweekly salary equal to that specified for a deputy county counsel III in the classified service of the County of San Diego. The research attorney III position shall be filled only upon a corresponding vacancy in the deputy clerk-research attorney I, deputy clerk-research attorney II, or deputy clerk-law clerk position.

(*l*) One deputy clerk-administrative secretary III, II, or I, as the case may be. A deputy clerk-administrative secretary III shall receive a biweekly salary at a rate equal to that specified for an administrative secretary III in the classified service of the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at a rate equal to that specified for an administrative secretary II in the classified service of the County of San Diego. A deputy clerk-administrative secretary I shall receive a biweekly salary at a rate equal to that specified for an administrative secretary I in the classified service of the County of San Diego.

(m) One deputy clerk-assistant, associate, or senior accountant as the case may be. A deputy clerk-assistant accountant shall receive a biweekly salary at a rate equal to that specified for the class of assistant accountant in the classified service of the County of San

Diego. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for the class of associate accountant in the classified service of the County of San Diego. A deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for the class of senior accountant in the classified service of the County of San Diego.

(n) Three deputy clerk-substance abuse assessors I or II, as the case may be. Notwithstanding subdivision (b) of Section 73649, persons appointed to these positions on or after January 1, 1990, shall serve at the pleasure of the court administrator. A deputy clerk-substance abuse assessor II shall receive a biweekly salary at a rate equal to that specified for the class of deputy probation officer in the classified service of San Diego County. A deputy clerk-substance abuse assessor I shall receive a biweekly salary at a rate 9 percent below that specified for a deputy clerk-substance abuse assessor II. Appointments to deputy clerk-substance abuse assessor I and II may be at any step within the salary range.

(o) Notwithstanding subdivision (b) of Section 73649, up to 10 extra help positions (hourly rate) to be appointed by and serve at the pleasure of the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with personnel employed for a period not to exceed 120 working days or 960 hours, whichever is greater, during a fiscal year on a part-time basis.

(p) Notwithstanding subdivision (b) of Section 73649, up to 10 deputy clerk-court workers may be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Sections 73640 to 73650, inclusive, pending a review and evaluation of the duties of these positions by the court administrator, and the establishment of specific classes as provided in this section. Prior to the establishment of these classes, the county personnel director shall conduct a classification review and make recommendations to the court administrator as to the establishment of these classes. The rate of pay for each individual employed in this class of deputy clerk-court worker shall be within the range proposed for the class pending establishment, at a rate determined by the court administrator following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months in duration. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When such an appointment is made, the class, compensation (including salary

and fringe benefits), and number of these positions may be established by joint action of a majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. In the event that the class pending establishment is tied to a class in the unclassified service of the County of San Diego, the joint action may designate that persons serving in the class pending establishment shall serve at the pleasure of the court administrator. The court administrator may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of a majority of the judges and the board of supervisors.

(q) Notwithstanding subdivision (b) of Section 73649, the court administrator may appoint up to 20 temporary extra help deputy clerk-municipal court trainees I, II, III, or V, who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk-municipal court trainee I shall receive an hourly salary at a rate equal to that specified for student worker I in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee II shall receive an hourly salary at a rate equal to that specified for student worker II in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee III shall receive an hourly salary at a rate equal to that specified for student worker III in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee V shall receive an hourly salary at a rate equal to that specified for student worker V in the unclassified service of the County of San Diego. Persons who graduate and receive a degree in the field which qualified them for appointment to a deputy clerk-municipal court trainee class, may remain in the class and be employed on a full-time basis for up to six months from the first day of the month following their date of graduation.

(r) Four deputy administrative clerks III, II, or I, as the case may be. A deputy administrative clerk III shall receive a biweekly salary at a rate equal to that specified for a deputy clerk IV. A deputy administrative clerk II shall receive a biweekly salary at a rate equal to that specified for deputy clerk III. A deputy administrative clerk I shall receive a biweekly salary at a rate equal to that specified for deputy clerk II.

(s) Two deputy clerk-municipal court computer specialists I, II, or III, as the case may be. A deputy clerk-municipal court computer specialist I, II, or III shall receive a biweekly salary at a rate equal to that specified for departmental computer specialist I, II, or III, respectively, in the classified service of the County of San Diego.

(t) One deputy clerk-senior systems analyst, associate systems

analyst, assistant systems analyst, systems analyst trainee, or systems support analyst II, I, or trainee, as the case may be. A deputy clerk-senior systems analyst shall receive a biweekly salary at a rate equal to that specified for senior systems analyst in the classified service of the County of San Diego. A deputy clerk-associate systems analyst shall receive a biweekly salary at a rate equal to that specified for associate systems analyst in the classified service of the County of San Diego. A deputy clerk-assistant systems analyst shall receive a biweekly salary at a rate equal to that specified for assistant systems analyst in the classified service of the County of San Diego. A deputy clerk-systems analyst trainee shall receive a biweekly salary at a rate equal to that specified for systems analyst trainee in the classified service of the County of San Diego. A deputy clerk-systems support analyst II shall receive a biweekly salary at a rate equal to that specified for a systems support analyst II in the classified service of the County of San Diego. A deputy clerk-systems support analyst I shall receive a biweekly salary at a rate equal to that specified for a systems support analyst I in the classified service of the County of San Diego. A deputy clerk-systems support analyst trainee shall receive a salary equal to that specified for a systems support analyst trainee in the classified service of the County of San Diego.

(u) One deputy clerk-staff development specialist or deputy clerk-staff development coordinator as the case may be. A deputy clerk-staff development specialist shall receive a biweekly salary at a rate equal to that specified for staff development specialist in the classified service of the County of San Diego. A deputy clerk-staff development coordinator shall receive a biweekly salary at a rate 5 percent higher than that specified for staff development specialist in the classified service of the County of San Diego.

(v) Eight deputy clerks V, each of whom shall receive a biweekly salary equal to that specified for deputy clerk V in the San Diego Municipal Court. The duties of the class of deputy clerk V shall include supervisory responsibilities.

(w) One deputy clerk-legal assistant I or II, as the case may be. A deputy clerk-legal assistant I shall receive a biweekly salary at a rate equal to that specified for legal assistant I in the classified service of the County of San Diego. A deputy clerk-legal assistant II shall receive a biweekly salary at a rate equal to that specified for legal assistant II in the classified service of the County of San Diego.

(x) Four deputy clerk-collection officers I or II, as the case may be. A deputy clerk-collection officer I shall receive a biweekly salary at a rate equal to that specified for revenue and recovery officer I in the classified service of the County of San Diego. A deputy clerk-collection officer II shall receive a biweekly salary at a rate equal to that specified for revenue and recovery officer II in the classified service of the County of San Diego.

(y) Except as provided in this section, Section 74345 shall apply to the attachés appointed pursuant to this section and Section 73643.

(z) Notwithstanding any other provision of law, the number of

positions in classifications authorized under subdivisions (b) to (x), inclusive, and under Sections 73646 and 73649.1 may be increased by up to 30 additional positions by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The rules regarding appointment and compensation (including salary and fringe benefits) as they relate to appointments of persons to those positions shall be the same as those applicable to the class of those positions. The action of the majority of the judges and the resolution of the board of supervisors adjusting such positions shall designate the class title or titles and number of positions to be added to each respective class. Any adjustment made pursuant to this subdivision shall be effective on adoption of the resolution by the board of supervisors and shall remain in effect only until January 1 of the second year following the year in which the resolution is adopted, unless earlier ratified by the Legislature.

SEC. 40. Section 73644.5 is added to the Government Code, to read:

73644.5. The El Cajon Municipal Court or any agency supporting the court may establish a "900" telephone number or numbers, for computerized remote access by individuals or organizations to court information. The proceeds from these "900" telephone numbers shall be continuously and solely appropriated to the El Cajon Municipal Court or court support agency for the purposes of ongoing staff information and data processing services.

SEC. 41. Section 73646 of the Government Code is amended to read:

73646. By order entered in the minutes of the court, a majority of judges may appoint three judicial secretaries, one of whom may be a supervising judicial secretary, who shall serve at the pleasure of the judges. Each judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego. Appointments to judicial secretary may be at any step within the salary range.

The position of judicial secretary shall be deemed comparable to the position of administrative secretary IV in the classified service of San Diego County. Whenever the salary of the class of administrative secretary IV is adjusted by the Board of Supervisors of San Diego County, the salary of the class of judicial secretaries shall be adjusted a commensurate percentage in the salary schedule on the same date.

The supervising judicial secretary shall receive a biweekly salary at a rate equal to that specified for the classification of confidential legal secretary III in the classified service of the County of San Diego. Appointments to supervising judicial secretary may be at any step within the salary range. The position of supervising judicial secretary shall be deemed comparable to the position of confidential legal secretary III in the classified service of San Diego County. Whenever the salary of the class of confidential legal secretary III is adjusted by the Board of Supervisors of San Diego County, the salary of the class

of supervising judicial secretary shall be adjusted a commensurate percentage in the salary schedule on the same date.

Notwithstanding Section 73649, the classifications of judicial secretary and supervising judicial secretary, respectively, shall receive and be entitled to the same number of holidays, leaves of absence, percentage of retirement offsets, and all other fringe benefits as are now or may hereafter be provided for the classifications of administrative secretary IV and confidential legal secretary III, respectively, in the classified service of the County of San Diego. However, the classifications of judicial secretary and supervising judicial secretary shall be entitled to: (a) earn sick leave credit at the rate of 5.385 percent of each hour of paid service during the pay period; (b) earn vacation credit at the rate of 5.769 percent of each hour of paid service during the pay period and accumulate vacation credit not to exceed 25 working days where the employee has less than 10 years of continuous service; and (c) earn vacation credit at the rate of 8.075 percent of each hour of paid service during the pay period and accumulate vacation credit not to exceed 35 working days where the employee has 10 years or more of continuous service. Notwithstanding the sick leave and vacation credits indicated above, persons appointed to the positions of judicial secretary and supervising judicial secretary on or after January 1, 1993, shall be entitled to earn and accrue the same sick leave credit and vacation credit as an administrative secretary IV and confidential legal secretary III, respectively, in the classified service of the County of San Diego.

SEC. 42. Section 73649 of the Government Code is amended to read:

73649. (a) In addition to the salary provided in this article, the classes of attachés of the municipal court shall receive, and they shall be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classes specified in Section 74345. The court administrator shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the class of chief probation officer of the County of San Diego. The assistant court administrator shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the class of assistant chief probation officer of the County of San Diego. All persons employed as deputy clerk-division manager I, deputy clerk-division manager II, deputy clerk-division manager III, or deputy clerk-administrative assistant III shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the class of administrative assistant III in the classified service of the County of San Diego. However, all officers, employees, and attachés of the municipal court shall be eligible to enroll in the dental and vision group insurance plans sponsored by the County of San Diego. The

purpose and intent of this subdivision is to provide all court attachés except judicial secretaries employed, traffic trial commissioners, and court reporters with any and all, but no more than, those fringe benefits which are available to their comparable classes in the service of the County of San Diego as specified in this section or in Section 74345. Whenever action or approval by the chief administrative officer or county personnel director is required for the county benefit, it shall be taken or given, as to municipal court officers and attachés other than those serving at the pleasure of the court, by the court administrator with the approval of the majority of the judges of the municipal court or their designees, or, as to those serving at the pleasure of the court, by the majority of the judges of the municipal court or their designees. Changes in fringe benefits shall be effective on the same date as those for employees of the County of San Diego in the specified comparable classes. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court, excluding fringe benefits.

(b) All attachés other than court reporters, judicial secretaries, traffic trial commissioners, and other persons serving at the pleasure of their appointing authorities, may be appointed, promoted, removed, suspended, laid off, or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension, layoff, or discharge to civil service provisions applicable to the classified personnel of the County of San Diego. Whenever these attachés are appointed or promoted to a position, they shall serve a probationary period of at least six months, and not to exceed 18 months, as specified in the job announcement for the class prior to appointment. If the San Diego County Charter is amended to repeal the Civil Service Rules and the board of supervisors adopts new Personnel Rules, the reference to civil service provisions in this subdivision shall mean the personnel rule provisions.

SEC. 44. Section 73672.8 of the Government Code is repealed.

SEC. 45. Section 73674 of the Government Code is amended to read:

73674. The municipal court executive officer may appoint the following numbers of staff at the classifications and salary grades indicated:

Number	Classification	Salary Grade
1	Assistant Municipal Court Executive Officer	70-00400
2	Clerical Operations Manager	75-00800
1	Accountant	07-07300
1	Research Attorney	55-00075
4	Fiscal Clerk	09-02400
2	Judicial Secretary	09-03900

24	Legal Procedures Clerk	09-01800
12	Courtroom Clerk (Muni Court)	09-04100
1	Lead Legal Procedures Clerk	09-02800
1	Supervising Courtroom Clerk	08-01580
4	Supervising Legal Procedures Clerk	08-01200
1	Principal Court Clerk	08-01600
7	Data Entry Clerk	09-01000
2	Clerical Support Specialist	09-02200
1	Clerk	09-00600
6	Court Reporter (Muni Court)	09-04100
2	Interpretive Services Coordinator	07-03550
1	Lead Fiscal Clerk	09-03300
1	Fiscal Records Supervisor	08-01900
1	Systems Analyst	07-08600

SEC. 46. Section 73683 of the Government Code is amended to read:

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

(1) One Administrative Services Assistant at salary within Band "H."

(2) One Administrative Secretary-Conf. at salary range 960.

(3) One Supervising Court Clerk at salary range 1158.

(4) Three Senior Court Clerks at salary range 1071.

(5) Nineteen Court Clerks II at salary range 943.

(6) Nineteen Court Clerks I at salary range 841.

(7) Five Supervising Legal Process Clerks at salary range 1158.

(8) Six Senior Legal Process Clerks at salary range 1071.

(9) Ten Legal Process Clerks II at salary range 943.

(10) Ten Legal Process Clerks I at salary range 841.

(11) Thirty-eight Office Assistants III at salary range 652.

(12) Thirty-eight Office Assistants II at salary range 587.

(13) Thirty-eight Office Assistants I at salary range 482.

(14) One Court Interpreting Services Coordinator at salary range 971.

(15) Two Court Interpreters at salary range 883.

(16) One Secretary to the Municipal Courts III at salary range 823.

(17) One Secretary to the Municipal Courts II at salary range 708.

(18) One Secretary to the Municipal Courts I at salary range 643.

(19) Three Municipal Court Division Managers at salary within Band "G."

(20) One Research Attorney III at salary range 1808.
(21) One Research Attorney II at salary range 1503.
(22) One Research Attorney I at salary range 1174.
(23) One Systems and Procedures Analyst III at salary range 1403.
(24) One Systems and Procedures Analyst II at salary range 1211.
(25) One Systems and Procedures Analyst I at salary range 979.

(b) Salary ranges indicated in paragraphs (1), (2), (5), (6), (9), and (10) to (25), inclusive, of subdivision (a) are effective December 21, 1992. The salary ranges indicated in paragraphs (3), (4), (7), and (8) of subdivision (a) are effective December 20, 1993.

(c) The clerk may appoint any combination of court clerks, legal process clerks, and office assistants described in paragraphs (3) to (13), inclusive, of subdivision (a) not to exceed a total of 76; may appoint any combination of secretaries described in paragraphs (16) to (18), inclusive, of subdivision (a) not to exceed a total of one; may appoint any combination of research attorneys described in paragraphs (20) to (22), inclusive, of subdivision (a) not to exceed a total of one; and may appoint any combination of systems and procedures analysts described in paragraphs (23) to (25), inclusive, of subdivision (a) not to exceed a total of one.

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

(1) One Court Clerk II at salary range 943.
(2) One Court Clerk I at salary range 841.
(3) One Supervising Legal Process Clerk at salary range 1158.
(4) Five Legal Process Clerks II at salary range 943.
(5) Five Legal Process Clerks I at salary range 841.
(6) Five Office Assistants III at salary range 652.
(7) Five Office Assistants II at salary range 587.
(8) Five Office Assistants I at salary range 482.

(e) Salary ranges indicated in paragraphs (1), (2), and (4) to (8), inclusive, of subdivision (d) are effective December 21, 1992. The salary range indicated in paragraph (3) of subdivision (d) is effective December 20, 1993.

The clerk may appoint any combination of Court Clerks described in paragraphs (1) and (2) of subdivision (d) not to exceed a total of one, and may appoint any combination of the specified number of personnel in each of paragraphs (4) to (8), inclusive, of subdivision (d) not to exceed a total of five.

SEC. 47. Section 73684 of the Government Code is amended to read:

73684. The biweekly salaries of the following classes of positions shall be in accordance with the following schedule:

Position	Range	1	2	3	4	5
Municipal Court Administrator	Band C	68825	–	–	–	89903
Municipal Court Division Manager	Band G	32606	–	–	–	47355
Administrative Services Assistant	Band H	24148	–	–	–	38795
Administrative Secretary-Confidential	960	960	1008	1058	1111	1167
Systems and Procedures Analyst III	1403	1403	1473	1547	1624	1705
Systems and Procedures Analyst II	1211	1211	1272	1336	1403	1473
Systems and Procedures Analyst I	979	979	1028	1079	1133	1190
Research Attorney III	1808	1808	1898	1993	2093	2198
Research Attorney II	1503	1503	1578	1657	1740	1827
Research Attorney I	1174	1174	1233	1295	1360	1428
Court Interpreting Services Coordinator	1069	1069	1122	1178	1237	1299
Court Interpreter	883	883	927	973	1022	1073
Secretary to the Municipal Courts III	823	823	864	907	952	1000
Secretary to the Municipal Courts II	708	708	743	780	819	860
Secretary to the Municipal Courts I	643	643	675	709	744	781
Supervising Court Clerk	1158	–	–	–	1341	1408
Senior Court Clerk	1071	–	–	–	1240	1302
Court Clerk II	943	943	990	1040	1092	1147
Court Clerk I	841	841	883	927	973	1022
Supervising Legal Process Clerk	1158	–	–	–	1341	1408
Senior Legal Process Clerk	1071	–	–	–	1240	1302
Legal Process Clerk II	943	943	990	1040	1092	1147
Legal Process Clerk I	841	841	883	927	973	1022
Office Assistant III	652	652	685	719	755	793
Office Assistant II	587	587	616	647	679	713
Office Assistant I	482	482	506	531	558	586

Except as specifically provided in this article to the contrary, all benefits, privileges and other provisions affecting the employment of county employees shall apply to all officers and attachés of the municipal court.

SEC. 48. Section 73773 of the Government Code is amended to read:

73773. (a) The clerk, with the approval of the judges of the court,

may appoint the following employees:

(1) One assistant clerk administrative officer.
(2) One administrative services officer I.
(3) One administrative services assistant II.
(4) One accountant II.
(5) Four supervising legal clerks.
(6) One judicial support clerk.
(7) Nine courtroom clerks.
(8) Three senior legal clerks.
(9) One senior accounting assistant.
(10) Twelve legal clerks III.
(11) Eleven legal clerks II.
(12) Three accounting assistants.
(13) Nine legal clerks I.
(14) One intermediate clerk typist.
(15) Such other employees as the board of supervisors may approve upon the recommendation of the municipal court, each of which shall receive a salary recommended by the municipal court and approved by the board of supervisors.

Any appointee shall be compensated in the first step and advanced to each higher step upon completion of the probationary period and each successive 12 months of service thereafter. Upon the recommendation of the municipal court and approval of the board of supervisors, such employees may be employed at, or may be granted, a special step increase to any step within the salary range on the basis of experience and qualifications.

(b) Any change in the salaries in effect immediately prior to January 1, 1993, shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature; and

Persons employed in any of the authorized positions shall be paid the salary assigned to the following ranges as set forth in the biweekly salary schedule of the County of Marin.

Position	Salary
Assistant Clerk Administrative Officer	2,345
Administrative Services Officer I	1,504–1,819
Administrative Services Assistant II	1,381–1,670
Accountant II	1,302–1,568
Supervising Legal Clerk	1,214–1,458
Judicial Support Clerk	1,192–1,431
Courtroom Clerk	1,173–1,412
Senior Legal Clerk	1,038–1,247
Senior Accounting Assistant	1,002–1,198
Legal Clerk III	956–1,142
Legal Clerk II	861–1,028
Accounting Assistant	861–1,028
Legal Clerk I	792–948
Intermediate Clerk Typist	759–906

SEC. 48.5. Section 73793 of the Government Code is amended to read:

73793. There shall be one administrative officer of the court known as the municipal court clerk-administrator, who shall be appointed by a majority of the judges of the court. The court clerk-administrator shall receive a biweekly salary on range 69.5.

SEC. 49. Section 73796 of the Government Code is amended to read:

73796. There shall be one marshal of the Merced County Municipal Court. The marshal shall receive a salary on range 68.5.

When a vacancy occurs in the office, a majority of the superior and municipal court judges shall appoint the marshal and the marshal shall serve at their pleasure.

SEC. 50. Section 73797 of the Government Code is amended to read:

73797. (a) The marshal may appoint:

(1) One assistant marshal on range 65.5.

(2) Two marshal's sergeants on range 61.2.

(3) Fourteen deputy marshals on range 57.9.

(4) Three civil assistants on range 50.7.

(5) One supervising civil assistant on range 53.8.

(b) The initial appointments to the positions of assistant marshal and deputy marshal shall be made from persons who have served as constables in a justice court in Merced County during the year of 1976. Such appointees shall become deputy marshals and receive the salary provided at the fifth step of the range designated for deputy marshal. The assistant marshal initially appointed shall receive the salary provided at the fifth step of the range designated for assistant marshal.

SEC. 51. Section 73798 of the Government Code is amended to read:

73798. The clerk-administrator may appoint:

(a) One assistant municipal court administrator on range 63.6.

(b) Four supervising municipal court clerks I on range 54.8.

(c) Twelve municipal court clerks II on range 50.7.

(d) Twenty-eight municipal court clerks I on range 48.2.

(e) One supervising account clerk I on range 52.8.

(f) Six account clerks I on range 47.2.

(g) Two typist-clerks II on range 45.4.

(h) Two municipal court services officers on range 54.6.

(i) One typist-clerk III on range 48.4.

(j) One secretary III on range 53.3.

(k) One municipal court automation services manager on range 59.3.

SEC. 52. Section 73954 of the Government Code is amended to read:

73954. The court administrator may appoint:

(a) One assistant court administrator at the direction of a majority of the judges of the court who shall serve at the pleasure of the

majority of the judges. The biweekly salary of the assistant court administrator shall be within the biweekly rate range ES-10 indicated in the Compensation Ordinance of the County of San Diego. The biweekly salary and any advancement or reduction within the range shall be determined in accordance with the provisions set forth under Article 3.5 of the Compensation Ordinance of the County of San Diego and of subdivision (a) of Section 74345, except that any reference to "executive compensation committee" or "chief administrative officer" in Article 3.5 of the Compensation Ordinance of the County of San Diego shall be interpreted as "the court administrator." A person shall not be appointed to the class of assistant court administrator if all three deputy court administrator positions are filled.

(b) Three deputy court administrators, who shall serve at the pleasure of the court administrator. The deputy court administrators shall receive a salary within the biweekly range ES-6 indicated in the Compensation Ordinance of the County of San Diego. The biweekly salary, and any advancement or reduction within the range, shall be determined in accordance with Article 3.5 of the Compensation Ordinance of the County of San Diego and subdivision (a) of Section 74345, except that any reference to "executive compensation committee" or "the chief administrative officer" in Article 3.5 of the Compensation Ordinance of the County of San Diego shall mean "the court administrator." Notwithstanding subdivision (b) of Section 73957, persons who hold the position of deputy clerk-administrative services manager I or deputy clerk division manager III on January 1, 1995, may be appointed by the court administrator to the position of deputy court administrator without further examination, subject to certification by the court administrator that the person possesses the minimum qualification and necessary skills to perform the duties of the position. The deputy court administrator positions shall be filled only upon the equivalent number of corresponding vacancies in the positions denoted in subdivision (c), (d), or (*l*).

(c) Two deputy clerk-division managers III who shall receive a biweekly salary at a rate 24.5 percent higher than that specified for deputy clerk-division managers II.

(d) Four deputy clerk-division managers I or II, as the case may be. A division manager I shall receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V in the San Diego Judicial District. A division manager II shall receive a biweekly salary at a rate 15.5 percent higher than that specified for deputy clerk V of the San Diego Judicial District.

(e) Ten deputy clerks V, who shall receive a salary at a rate equal to that specified for deputy clerk V in the San Diego Municipal Court. The duties of the class of deputy clerk V shall include supervisory responsibilities.

(f) Twenty-five deputy clerks IV, or senior deputy clerks, as the case may be. Each deputy clerk IV shall receive a biweekly salary at

a rate equal to the greater of that specified for superior court clerk in the superior court service of the County of San Diego or 19.95 percent higher than that specified for deputy clerk III. The class of senior deputy clerk shall not exceed three positions. Each of the senior deputy clerks shall receive a biweekly salary at a rate 5 percent higher than that specified for a deputy clerk IV. The duties of the class of senior deputy clerk shall be those of a courtroom clerk and shall include supervisory responsibilities. One deputy clerk IV who is assigned to the presiding judge in the master calendar department may receive a biweekly salary at a rate of 5 percent higher than that specified for the deputy clerk IV. This increased biweekly rate shall apply only during the period of this assignment and shall not apply to paid time off or to terminal payoff.

(g) One hundred deputy clerks III, II, I, or deputy clerk-intermediate clerk typists as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk III in the classified service of the County of San Diego. Each deputy clerk II shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk II in the classified service of the County of San Diego. Each of the deputy clerks I shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk I in the classified service of the County of San Diego. At the discretion of the court administrator, appointments to the deputy clerk I class may be at any step within the salary range. Up to four of these positions may be filled at the level of deputy clerk-intermediate clerk typist. A deputy clerk-intermediate clerk typist shall receive a biweekly salary at a rate equal to that specified for intermediate clerk typist in the classified service of the County of San Diego.

(h) One deputy clerk-municipal court secretary. A deputy clerk-municipal court secretary shall receive a biweekly salary at a rate equal to that specified for confidential legal secretary III in the classified service of the County of San Diego. Appointments to the class of deputy-clerk municipal court secretary may be at any step within the salary range at the discretion of the court administrator.

(i) One deputy clerk-administrative secretary III, II, or I, as the case may be. A deputy clerk-administrative secretary III shall receive a biweekly salary at a rate equal to that specified for administrative secretary III in the classified service of the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at a rate equal to that specified for administrative secretary II in the classified service of the County of San Diego. A deputy clerk-administrative secretary I shall receive a biweekly salary at a rate equal to that specified for administrative secretary I in the classified service of the County of San Diego.

(j) Five deputy clerk-court interpreters who shall receive a biweekly salary at a rate equal to that specified for superior court clerk interpreter in the superior court service of the County of San Diego.

(k) One deputy clerk-interpreter coordinator, or deputy clerk-interpreter supervisor, as the case may be. A deputy clerk-interpreter coordinator shall receive a biweekly salary at a rate equal to that specified for deputy clerk V. A deputy clerk-interpreter supervisor shall receive a biweekly salary at a rate equal to that specified for deputy clerk IV. Appointments to deputy clerk interpreter-coordinator or deputy clerk-interpreter supervisor may be at any step within the salary range at the discretion of the court administrator.

(*l*) One deputy clerk-administrative assistant I, II, or III, or deputy clerk-administrative services manager I or II, as the case may be. The deputy clerk-administrative assistant I, II, or III, shall receive a biweekly salary at a rate equal to that specified for administrative assistant I, II, or III, respectively, in the classified service of the County of San Diego. The deputy clerk-administrative services manager I, shall receive a biweekly salary at a rate equal to that specified for administrative services manager I in the classified service of the County of San Diego. The deputy clerk-administrative services manager II shall receive a biweekly salary at a rate equal to that specified for administrative services manager II in the classified service of the County of San Diego.

(m) Five deputy administrative clerks III, II, or I, as the case may be. Each deputy administrative clerk III shall receive a biweekly salary at a rate equal to that specified for a deputy clerk IV. Each deputy administrative clerk II shall receive a biweekly salary at a rate equal to that specified for deputy clerk III. Each deputy administrative clerk I shall receive a biweekly salary at a rate equal to that specified for deputy clerk II.

(n) One deputy clerk-senior, associate, or assistant accountant, as the case may be. A deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for senior accountant in the classified service of the County of San Diego. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for associate accountant in the classified service in the County of San Diego. A deputy clerk-assistant accountant shall receive a biweekly salary at a rate equal to that specified for assistant accountant in the classified service of the County of San Diego.

(o) One deputy clerk-assistant, or junior accountant, as the case may be. The deputy clerk-assistant accountant shall receive a biweekly salary at a rate equal to that specified for an assistant accountant in the classified service of the County of San Diego. The deputy clerk-junior accountant shall receive a biweekly salary at a rate equal to that specified for a junior accountant in the classified service of the County of San Diego.

(p) Two deputy clerk-research attorney I, deputy clerk-research attorney II, or deputy clerk-law clerk, as the case may be. Persons appointed to either of these positions on or after January 1, 1991, shall serve at the pleasure of the court administrator. A deputy

clerk-research attorney I shall receive a biweekly salary at a rate equal to that specified for deputy county counsel I in the classified service of the County of San Diego. A deputy clerk-research attorney II shall receive a biweekly salary at a rate equal to that specified for deputy county counsel II in the classified service of the County of San Diego. A deputy clerk-law clerk shall receive a biweekly salary at a rate equal to that specified for law clerk in the classified service of the County of San Diego.

(q) One deputy clerk-staff development specialist or deputy clerk-staff development coordinator as the case may be. A deputy clerk-staff development specialist shall receive a biweekly salary at a rate equal to that specified for staff development specialist in the classified service of the County of San Diego. A deputy clerk-staff development coordinator shall receive a biweekly salary at a rate 5 percent higher than that specified for staff development specialist in the classified service of the County of San Diego.

(r) One deputy clerk-senior systems analyst, associate systems analyst, assistant systems analyst, or systems analyst trainee as the case may be. A deputy clerk-senior systems analyst shall receive a biweekly salary at a rate equal to that specified for senior systems analyst in the classified service of the County of San Diego. A deputy clerk-associate systems analyst shall receive a biweekly salary at a rate equal to that specified for associate systems analyst in the classified service of the County of San Diego. A deputy clerk-assistant systems analyst shall receive a biweekly salary at a rate equal to that specified for assistant systems analyst in the classified service of the County of San Diego. A deputy clerk-systems analyst trainee shall receive a biweekly salary at a rate equal to that specified for systems analyst trainee in the classified service of the County of San Diego.

(s) Five deputy clerk-court referral officers I or deputy clerk-court referral officers II, as the case may be. Notwithstanding subdivision (b) of Section 73957, persons appointed to these positions shall serve at the pleasure of the court administrator. The deputy clerk-court referral officer II shall receive a biweekly salary at a rate equal to that specified for the class of deputy probation officer in the classified service of the County of San Diego. A deputy clerk-court referral officer I shall receive a biweekly salary at a rate of 9 percent below that specified for a deputy clerk-court referral officer II. Appointments to deputy clerk-court referral officer I and deputy clerk-court referral officer II may be at any step within the salary range.

(t) One deputy clerk-municipal court computer specialist I, II, or III, as the case may be. A deputy clerk-municipal court computer specialist I, II, or III shall receive a biweekly salary at a rate equal to that specified for departmental computer specialist I, II, or III, respectively, in the classified service of the County of San Diego.

(u) One deputy clerk-data entry supervisor. A deputy clerk-data entry supervisor shall receive a biweekly salary at a rate equal to that specified for data entry supervisor in the classified service of the

County of San Diego.

(v) Ten deputy clerk-data entry operators. A deputy clerk-data entry operator shall receive a biweekly salary at the rate equal to that specified for data entry operator in the classified service of the County of San Diego.

(w) Five deputy clerk-collection officers I, II, or III, as the case may be. Each deputy clerk-collection officer I shall receive a biweekly salary at a rate equal to that specified for revenue and recovery officer I in the classified service of the County of San Diego. Each deputy clerk-collection officers II shall receive a biweekly salary at a rate equal to that specified for revenue and recovery officer II in the classified service of the County of San Diego. Each deputy clerk-collection officer III shall receive a biweekly salary at a rate equal to that specified for revenue and recovery officer III in the classified service of the County of San Diego.

(x) Notwithstanding subdivision (b) of Section 73957, up to 10 extra help positions (hourly rate) to be appointed by and serve at the pleasure of the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with persons employed for a period not to exceed 120 working days or 960 hours, whichever is greater, during a fiscal year on a part-time basis.

(y) Notwithstanding subdivision (b) of Section 73957, up to 10 deputy clerk-court workers may be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Sections 73950 to 73960, inclusive, pending a review and evaluation of the duties of these positions by the court administrator, and the establishment of specific classes as provided in this section. Prior to the establishment of these classes, the county personnel director shall conduct a classification review and make recommendations to the court administrator as to the establishment of these classes. The rate of pay for each individual employed in this class of deputy clerk-court worker shall be within the range proposed for the class pending establishment at a rate determined by the court administrator following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months in duration. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When such an appointment is made, the class, compensation (including salary and fringe benefits), and number of these positions may be established by joint action of a majority of the judges and the board

of supervisors in accordance with established county personnel and budgetary procedures. In the event that the class pending establishment is tied to a class in the unclassified service of the County of San Diego, the joint action may designate that persons serving in the class pending establishment shall serve at the pleasure of the court administrator. The court administrator may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of a majority of the judges and the board of supervisors.

(z) Notwithstanding subdivision (b) of Section 73957, the court administrator may appoint up to 20 temporary extra help deputy clerk-municipal court trainees I, II, III, or V who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk-municipal court trainee I shall receive an hourly salary at a rate equal to that specified for student worker I in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee II shall receive an hourly salary at a rate equal to that specified for student worker II in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee III shall receive an hourly salary at a rate equal to that specified for student worker III in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee V shall receive an hourly salary at a rate equal to that specified for student worker V in the unclassified service of the County of San Diego. Persons who graduate and receive a degree in the field which qualified them for appointment to a deputy clerk-municipal court trainee class, may remain in the class and be employed on a full-time basis for up to six months from the first day of the month following their date of graduation.

(aa) Except as provided herein, the provisions of Section 74345 shall apply to the attachés appointed pursuant to this section and Section 73953.

(ab) Notwithstanding any other provision of law, the number of positions in classifications authorized under subdivisions (b) to (w), inclusive, (y), and (z) and under Sections 73959, 73960, and 73960.1 may be increased by up to 20 additional positions by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The rules regarding appointment and compensation (including salary and fringe benefits) as they relate to appointments of persons to such positions shall be the same as those applicable to the class of such positions. The action of the majority of the judges and the resolution of the board of supervisors adjusting such positions shall designate the class title or titles and number of positions to be added to each

respective class. Any adjustment made pursuant to this subdivision shall be effective on adoption of the resolution by the board of supervisors and shall remain in effect only until January 1 of the second year following the year in which the resolution is adopted, unless earlier ratified by the Legislature.

SEC. 53. Section 73954.5 is added to the Government Code, to read:

73954.5. The North County Municipal Court or any agency supporting this court may establish a "900" telephone number or numbers for computerized remote access by individuals or organizations to court information. The proceeds from those "900" telephone numbers shall be continuously and solely appropriated to the use of the court or court support agency for the purposes of staff and information data processing services.

SEC. 54. Section 73957 of the Government Code is amended to read:

73957. (a) In addition to the salary provided in this article, the classes of attachés of the municipal court shall receive, and they shall be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classes specified in Section 74345. The court administrator shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the classification of chief probation officer of the County of San Diego. The assistant court administrator and deputy court administrators shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the classification of assistant chief probation officer of the County of San Diego. All persons employed as deputy clerk-division managers III, II, and I, shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by an administrative assistant III of the classified service of the County of San Diego. However, all officers, employees, and attachés of the municipal court shall be eligible to enroll in the dental and vision group insurance plans sponsored by the County of San Diego. The purpose and intent of this subdivision is to provide all court attachés, except commissioners, court reporters, and judicial secretaries, with any and all fringe benefits but no more than those which are available to comparable classes in the classified service of the County of San Diego as specified in this section or in Section 74345. Whenever action or approval by the chief administrative officer or the county personnel director is required for the county benefit, it shall be taken or given, as to comparable municipal court officers and attachés other than those serving at the pleasure of the court, by the court administrator with the approval of the majority of the judges of the municipal court or their designees, or as to the court administrator and others serving at the pleasure of the court, by a majority of the judges or their designees. Changes in fringe benefits

shall be effective on the same date as those for employees of the County of San Diego in the specified comparable classes. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court, excluding fringe benefits.

(b) All attachés, other than the court administrator, the assistant court administrator, commissioners, court reporters, judicial secretaries, and other persons serving at the pleasure of their appointing authorities, may be appointed, promoted, removed, suspended, laid off, or discharged for cause by the appointing authority subject to such appointment, promotion, removal, suspension, layoff, or discharge to civil service provisions applicable to the classified personnel of the County of San Diego. Whenever such attachés are appointed or promoted to a position, they shall serve a probationary period of at least six months and not to exceed 18 months, as specified in the job announcement for the class prior to the appointment. If the San Diego County Charter is amended to repeal the Civil Service Rules and the board of supervisors adopts new Personnel Rules, the reference to civil service provisions in this subdivision shall mean the personnel rule provisions.

SEC. 55. Section 73959 of the Government Code is amended to read:

73959. By order entered in the minutes of the court, a majority of judges may appoint three judicial secretaries or supervising judicial secretaries, as the case may be, who shall serve at the pleasure of the judges. The classification of supervising judicial secretary shall be limited to one position, and this one position only may be authorized by joint action of a majority of the judges and the board of supervisors pursuant to subdivision (s) of Section 73954. The supervising judicial secretary shall receive a biweekly salary at a rate equal to that specified for the classification of confidential legal secretary III in the classified service of the County of San Diego commencing at step 4 at initial employment and advancing to step 5 at the end of one year of continuous service. The position of supervising judicial secretary shall be deemed comparable to the position of confidential legal secretary III in the classified service of San Diego County. Whenever the salary of the class of confidential legal secretary III is adjusted by the Board of Supervisors of San Diego County, the salary of the class of supervising judicial secretary shall be adjusted a commensurate percentage in the salary schedule on the same date. Each judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego. Appointments in the class of judicial secretary may be at any step within the salary range at the discretion of the judges. The position of judicial secretary shall be deemed comparable to the position of administrative secretary IV in the classified service of San Diego County. Whenever the salary of the class of administrative secretary IV is adjusted by the Board of Supervisors of San Diego County, the

salary of the class of judicial secretaries shall be adjusted a commensurate percentage in the salary schedule on the same date. Notwithstanding the provisions of subdivision (a) of Section 73957, the classifications of supervising judicial secretary and judicial secretary, respectively, shall receive and be entitled to the same number of holidays, leaves of absence, retirement, and all other fringe benefits as are now or may hereafter be provided for the classifications of confidential legal secretary III and administrative secretary IV, respectively, in the classified service of the County of San Diego. However, the classifications of supervising judicial secretary and judicial secretary shall be entitled to: (a) earn sick leave credit at the rate of 5.385 percent of each hour of paid service during the pay period; (b) earn vacation credit at the rate of 5.769 percent of each hour of paid service during the pay period and accumulate vacation credit not to exceed 25 working days where the employee has less than 10 years of continuous service; and (c) earn vacation credit at the rate of 8.075 percent of each hour of paid service during the pay period and accumulate vacation credit not to exceed 35 working days where the employee has 10 years or more of continuous service. Notwithstanding the sick leave and vacation credits indicated above, persons appointed to the positions of judicial secretary and supervising judicial secretary on or after January 1, 1993, shall be entitled to earn and accrue the same sick leave credit and vacation credit as an administrative secretary IV and confidential legal secretary III, respectively, in the classified service of the County of San Diego.

SEC. 57. Section 74344 of the Government Code is amended to read:

74344. The court administrator may appoint:

(a) One assistant court administrator, with the consent of a majority of the judges of the court, who shall be empowered to act in the place and stead of the court administrator in the event that the court administrator is absent or unavailable for any reason. Persons appointed to this position on or after January 1, 1991, shall serve at the pleasure of the court administrator. The assistant court administrator shall receive a biweekly salary within the biweekly rate range ES-12 indicated in the Compensation Ordinance of the County of San Diego. The biweekly salary, and any advancement or reduction within the range, shall be determined in accordance with the provisions set forth under Article 3.5 of the Compensation Ordinance of the County of San Diego and of subdivision (a) of Section 74345, except that any reference to "executive compensation committee" or "chief administrative officer" in Article 3.5 of the Compensation Ordinance of the County of San Diego shall be interpreted as "the court administrator."

(b) Four deputy court administrators, with the consent of a majority of the judges of the court, one of whom shall be empowered to act in the place and stead of the assistant court administrator in the event that the assistant court administrator is absent or

unavailable for any reason. Persons appointed to these positions on or after January 1, 1991, shall serve at the pleasure of the court administrator. A deputy court administrator shall receive a salary within the biweekly rate range ES-10 indicated in the Compensation Ordinance of the County of San Diego. The biweekly salary, and any advancement or reduction within the range, shall be determined in accordance with the provisions set forth under Article 3.5 of the Compensation Ordinance of the County of San Diego and of subdivision (a) of Section 74345, except that any reference to "executive compensation committee" or "the chief administrative officer" in Article 3.5 of the Compensation Ordinance of the County of San Diego shall be interpreted as "the court administrator."

(c) Four deputy clerk-division managers III who shall receive a biweekly salary at a rate 24.5 percent higher than that specified for deputy clerk-division manager II. Two of these positions may be designated as principal managers. When a position is designated principal manager, the incumbent shall receive a bonus of 10 percent.

(d) Six deputy clerk-division managers II or deputy clerk-division managers I as the case may be. A deputy clerk-division manager II shall receive a biweekly salary at a rate 15.5 percent higher than that specified for deputy clerk V. A deputy clerk-manager I shall receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V.

(e) Thirteen deputy clerks V each of whom shall receive a biweekly salary at a rate 32.6 percent higher than that specified for deputy clerk III.

(f) One deputy clerk V or deputy clerk-division manager I may be designated as calendar coordinator by the court administrator and shall receive a bonus of 20.5 percent or 10.5 percent, respectively.

(g) Sixty-seven deputy clerk-senior deputy clerks or deputy clerks IV, as the case may be. A deputy clerk IV shall receive a biweekly salary at a rate equal to the greater of that specified for superior court clerks in the superior court service of the County of San Diego or 19.95 percent higher than that specified for deputy clerk III. The class of senior deputy clerk shall not exceed 17 positions. A senior deputy clerk shall receive a biweekly salary at a rate 5 percent higher than that specified for deputy clerk IV. The duties of the class of senior deputy clerk shall include supervisory responsibilities or special assignments.

(h) Two hundred six deputy clerks III, II, or I, or deputy clerk-intermediate clerk typists as the case may be. Each deputy clerk III shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk III in the classified service of the County of San Diego. Each deputy clerk II shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk II in the classified service of the County of San Diego. Each deputy clerk I shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk I in the classified service of the County of

San Diego. Appointments to deputy clerk I may be at any step within the salary range at the discretion of the court administrator. The class of deputy clerk-intermediate clerk typist shall not exceed 10 positions. A deputy clerk-intermediate clerk typist shall receive a biweekly salary at a rate equal to that specified for intermediate clerk typist in the classified service of the County of San Diego.

(i) Four deputy clerk-senior, associate, or assistant accountants, as the case may be. A deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for senior accountant in the classified service of the County of San Diego. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for associate accountant in the classified service of the County of San Diego. A deputy clerk-assistant accountant shall receive a biweekly salary at a rate equal to that specified for assistant accountant in the classified service of the County of San Diego.

(j) Eleven deputy clerk-court interpreters, each of whom shall receive a biweekly salary at a rate equal to that specified for superior court clerk interpreter in the superior court service of the County of San Diego.

(k) One deputy clerk-senior staff interpreter who shall receive a biweekly salary at a rate equal to that specified for deputy clerk V.

(*l*) One deputy clerk-municipal court secretary who shall receive a biweekly salary at a rate equal to that specified for confidential legal secretary III in the classified service of the County of San Diego. At the discretion of the court administrator appointment to the deputy clerk-municipal court secretary may be at any step within the salary range.

(m) One deputy clerk-administrative secretary IV, III, II, or I, as the case may be. A deputy clerk-administrative secretary IV shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego. A deputy clerk-administrative secretary III shall receive a biweekly salary at a rate equal to that specified for administrative secretary III in the classified service of the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at a rate equal to that specified for administrative secretary II in the classified service of the County of San Diego. A deputy clerk-administrative secretary I shall receive a biweekly salary at a rate equal to that specified for administrative secretary I in the classified service of the County of San Diego.

(n) One deputy clerk-administrative services manager II or I, as the case may be. A deputy clerk-administrative services manager II shall receive a biweekly salary at a rate equal to that specified for administrative services manager II in the classified service of the County of San Diego. A deputy clerk-administrative services manager I shall receive a biweekly salary at a rate equal to that specified for administrative services manager I in the classified service of the County of San Diego.

(o) One deputy clerk-principal administrative analyst who shall receive a biweekly salary at a rate equal to that specified for the class of principal administrative analyst in the classified service of the County of San Diego.

(p) Four deputy clerk-principal systems analysts, senior systems analysts, associate systems analysts, assistant systems analysts, or systems analyst trainees, as the case may be. A deputy clerk-principal systems analyst shall receive a biweekly salary at a rate equal to that specified for principal systems analyst in the classified service of the County of San Diego. A deputy clerk-senior systems analyst shall receive a biweekly salary at a rate equal to that specified for senior systems analyst in the classified service of the County of San Diego. A deputy clerk-associate systems analyst shall receive a biweekly salary at a rate equal to that specified for associate systems analyst in the classified service of the County of San Diego. A deputy clerk-assistant systems analyst shall receive a biweekly salary at a rate equal to that specified for assistant systems analyst in the classified service of the County of San Diego. A deputy clerk-systems analyst trainee shall receive a biweekly salary at a rate equal to that specified for systems analyst trainee in the classified service of the County of San Diego.

(q) Three deputy clerk-LAN systems supervisors or deputy clerk-LAN systems analysts III, II, or I, as the case may be. A deputy clerk-LAN systems supervisor shall receive a biweekly salary at a rate equal to that specified for DIS LAN systems supervisor in the classified service of the County of San Diego. A deputy clerk-LAN systems analyst III shall receive a biweekly salary at a rate equal to that specified for DIS LAN systems analyst III in the classified service of the County of San Diego. A deputy clerk-LAN systems analyst II shall receive a biweekly salary at a rate equal to that specified for DIS LAN systems analyst II in the classified service of the County of San Diego. A deputy clerk-LAN systems analyst I shall receive a biweekly salary at a rate equal to that specified for DIS LAN systems analyst I in the classified service of the County of San Diego.

(r) Two deputy clerk-research attorneys IV, or III, as the case may be. A deputy clerk-research attorney IV shall receive a biweekly salary at a rate equal to that specified for deputy county counsel IV in the classified service of the County of San Diego. A deputy clerk-research attorney III shall receive a biweekly salary at a rate equal to that specified for deputy county counsel III in the classified service of the County of San Diego. Notwithstanding subdivision (b) of Section 74348, persons appointed to these positions on or after January 1, 1991, shall serve at the pleasure of the court administrator.

(s) Four deputy clerk-research attorneys II or I, as the case may be. A deputy clerk-research attorney II shall receive a biweekly salary at a rate equal to that specified for deputy county counsel II in the classified service of the County of San Diego. A deputy clerk-research attorney I shall receive a biweekly salary at a rate equal to that specified for deputy county counsel I in the classified

service of the County of San Diego. Notwithstanding subdivision (b) of Section 74348, persons appointed to these positions on or after January 1, 1990, shall serve at the pleasure of the court administrator.

(t) Two deputy clerk-legal assistants II or I, as the case may be. A deputy clerk-legal assistant II shall receive a biweekly salary at a rate equal to that specified for legal assistant II in the classified service of the County of San Diego. A deputy clerk-legal assistant I shall receive a biweekly salary at a rate equal to that specified for legal assistant I in the classified service of the County of San Diego.

(u) Notwithstanding subdivision (b) of Section 74348, up to 10 deputy clerk-court workers may be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Section 74345 pending a review and evaluation of the duties of these positions by the court administrator, and the establishment of specific classes as provided in this section. Prior to the establishment of these classes, the county personnel director shall conduct a classification review and make recommendations to the court administrator as to the establishment of these classes. The rate of pay for each individual employed in this class of deputy clerk-court worker shall be within the designated range at a rate determined by the court administrator following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months in duration. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When an appointment is made, the class, compensation (including salary and fringe benefits), and number of these positions may be established by joint action of a majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. In the event that the class pending establishment is tied to a class in the unclassified service of the County of San Diego, the joint action may designate that a person serving in the class pending establishment shall serve at the pleasure of the court administrator. The court administrator may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire no later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of a majority of the judges and the board of supervisors.

(v) Notwithstanding subdivision (b) of Section 74348, up to 10 extra help deputy clerk-junior clerk positions (hourly rate) at the

junior clerk-typist level, may be appointed by and serve at the pleasure of the court administrator. These appointments shall be temporary for a period not to exceed six months, plus one additional period not to exceed six months, at the court administrator's option.

(w) Notwithstanding subdivision (b) of Section 74348, up to 20 extra help positions (hourly rate) may be appointed by and serve at the pleasure of the court administrator in the class and at the salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period not to exceed six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with persons employed for a period not to exceed 120 working days or 960 hours, whichever is greater, during a fiscal year on a part-time basis.

(x) Notwithstanding subdivision (b) of Section 74348, the court administrator may appoint up to 30 temporary extra help deputy clerk-municipal court trainees V, III, II, or I who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk-municipal court trainee V shall receive an hourly salary at a rate equal to that specified for student worker V in the service of the County of San Diego. A deputy clerk-municipal court trainee III shall receive an hourly salary at a rate equal to that specified for student worker III in the service of the County of San Diego. A deputy clerk-municipal court trainee II shall receive an hourly salary at a rate equal to that specified for student worker II in the service of the County of San Diego. A deputy clerk-municipal court trainee I shall receive a biweekly salary at a rate equal to that specified for student worker I in the service of the County of San Diego. Persons who graduate and receive a degree in the field which qualified them for appointment to a deputy clerk-municipal court trainee class, may remain in the class and be employed on a full-time basis for a period not to exceed six months from the first day of the month following their date of graduation.

(y) Twelve deputy clerk-administrative clerks III, II, or I, as the case may be. A deputy clerk-administrative clerk III shall receive a biweekly salary at a rate equal to that specified for deputy clerk IV. A deputy clerk administrative clerk II shall receive a biweekly salary at a rate equal to that specified for deputy clerk III. A deputy clerk administrative clerk I shall receive a biweekly salary at a rate equal to that specified for deputy clerk II.

(z) One deputy clerk-municipal court personnel officer or personnel officer II or I, as the case may be. A deputy clerk-municipal court personnel officer shall receive a biweekly salary at a rate equal to that specified for departmental personnel officer III in the classified service of the County of San Diego. A deputy clerk-personnel officer II shall receive a biweekly salary at a rate equal to that specified for departmental personnel officer II in the classified service of the County of San Diego. A deputy clerk-personnel officer I shall receive a biweekly salary at a rate

equal to that specified for departmental personnel officer I in the classified service of the County of San Diego.

(aa) Nine deputy clerk-analysts III, II, I, or trainee, administrative assistant III, II, or I, as the case may be. A deputy clerk-analyst III shall receive a biweekly salary at a rate equal to that specified for analyst III in the classified service of the County of San Diego. A deputy clerk-analyst II shall receive a biweekly salary at a rate equal to that specified for analyst II in the classified service of the County of San Diego. A deputy clerk-analyst I shall receive a biweekly salary at a rate equal to that specified for analyst I in the classified service of the County of San Diego. A deputy clerk-analyst trainee shall receive a biweekly salary at a rate equal to that specified for analyst trainee in the classified service of the County of San Diego. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for an analyst III in the classified service of the County of San Diego. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for an analyst II in the classified service of the County of San Diego. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for an analyst I in the classified service of the County of San Diego.

(ab) Two deputy clerk-staff development coordinators or staff development specialists, as the case may be. A deputy clerk-staff development coordinator shall receive a biweekly salary at a rate 5 percent higher than that specified for staff development specialist in the classified service of the County of San Diego. A deputy clerk-staff development specialist shall receive a biweekly salary at a rate equal to that specified for staff development specialist in the classified service of the County of San Diego.

(ac) One deputy clerk-court collection officer III who shall receive a biweekly salary at a rate equal to that specified for revenue and recover officer III in the classified service of the County of San Diego.

(ad) Five deputy clerk-court collection officers II or I, as the case may be. A deputy clerk-court collection officer II shall receive a biweekly salary at a rate equal to that specified for revenue and recovery officer II in the classified service of the County of San Diego. A deputy clerk-court collection officer I shall receive a biweekly salary at a rate equal to that specified for revenue and recovery officer I in the classified service of the County of San Diego.

(ae) Eight deputy clerk-court referral officers II or deputy clerk-court referral officers I, as the case may be. A deputy clerk-court referral officer II shall receive a biweekly salary at a rate equal to that specified for the class of deputy probation officer in the classified service of San Diego County. A deputy clerk-court referral officer I shall receive a biweekly salary at a rate 9 percent below that specified for the class of deputy probation officer in the classified service of San Diego County.

(af) Notwithstanding any other provision of law, the number of

positions in classifications authorized under subdivisions (c) to (w), inclusive, and (y) to (af), inclusive, and under Sections 74346 and 74352 may be increased by up to 136 additional positions by joint action of a majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The rules regarding appointment and compensation (including salary and fringe benefits) as they relate to appointments of persons to the positions shall be the same as those applicable to the class of those positions. The action of a majority of the judges and the resolution of the board of supervisors adjusting such positions shall designate the class title or titles and number of positions to be added to each respective class. Any adjustment made pursuant to this subdivision shall be effective upon adoption of a resolution by the board of supervisors and shall remain in effect only until January 1 of the second year following the year in which the resolution became effective, unless earlier ratified by the Legislature.

SEC. 58. Section 74345 of the Government Code is amended to read:

74345. (a) All matters affecting the employment and compensation (including salary and fringe benefits) of municipal court officers and attachés not specifically provided for in this article or other provisions of state law shall be governed by the then-current ordinances and resolutions of the Board of Supervisors of the County of San Diego in the same manner as these employment and compensation provisions may now or hereafter affect employees of the County of San Diego in the comparable classes specified in this section or in Sections 73649, 73957, 74348, and 74749 if other comparable classes are specified in these sections. Whenever in the ordinances or resolutions action or approval is required to be taken or given by the chief administrative officer or the county personnel director, it shall be taken or given as to municipal court officers and attachés, other than those serving at the pleasure of the court, by the court administrator with the approval of a majority of the judges or their designees, or as to persons serving at the pleasure of the court, by a majority of the judges or their designees.

(b) The hereinafter specified court classes are deemed to be comparable in job level to the specified comparable classes in the service of the County of San Diego. Whenever the salaries of such classes in the service of the County of San Diego are adjusted by the board of supervisors, the salaries of the comparable classes in the office of the court administrator shall be adjusted a commensurate amount effective on the same date. In no event shall the salary of the clerk, or any deputy clerk who occupied his or her position on the day prior to the effective date of this section, be less than his or her salary on that day. Any person whose title is changed as a result of the enactment of or of any amendments to this article shall receive credit for continued service to which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments

earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service. The comparable classes are as follows:

Municipal Court Class	County Class
Deputy clerk-principal division manager III	Legal procedures clerk III
Deputy clerk-division manager III	Legal procedures clerk III
Deputy clerk-division manager II	Legal procedures clerk III
Deputy clerk-division manager I	Legal procedures clerk III
Deputy clerk-intermediate clerk typist	Intermediate clerk typist
Deputy clerk-junior clerk typist	Junior clerk typist
Deputy clerk V	Legal procedures clerk III
Senior deputy clerk	Legal procedures clerk III
Deputy clerk IV	Legal procedures clerk III
Deputy clerk III	Legal procedures clerk III
Deputy clerk II	Legal procedures clerk II
Deputy clerk I	Legal procedures clerk I
Deputy clerk-administrative clerk III	Legal procedures clerk III
Deputy clerk-administrative clerk II	Legal procedures clerk III
Deputy clerk-administrative clerk I	Legal procedures clerk II
Deputy clerk-municipal court personnel officer	Departmental personnel officer III
Deputy clerk-personnel officer II	Departmental personnel officer II
Deputy clerk-personnel officer I	Departmental personnel officer I
Deputy clerk-data entry supervisor	Data entry supervisor
Deputy clerk-senior data entry operator	Senior data entry operator
Deputy clerk-data entry operator	Data entry operator
Deputy clerk-interpreter coordinator	Legal procedures clerk III
Deputy clerk-senior interpreter	Legal procedures clerk III
Deputy clerk-interpreter supervisor	Legal procedures clerk III
Deputy clerk-court interpreter	Legal procedures clerk III
Deputy clerk-administrative secretary IV	Administrative secretary IV
Deputy clerk-administrative secretary III	Administrative secretary III
Deputy clerk-administrative secretary II	Administrative secretary II
Deputy clerk-administrative secretary I	Administrative secretary I

Deputy clerk-municipal court secretary	Confidential legal secretary III
Deputy clerk-administrative assistant III	Administrative assistant III
Deputy clerk-administrative assistant II	Administrative assistant II
Deputy clerk-administrative assistant I	Administrative assistant I
Deputy clerk-administrative assistant trainee	Administrative assistant trainee
Deputy clerk-staff development specialist	Staff development specialist
Deputy clerk-staff development coordinator	Staff development specialist
Deputy clerk-principal systems analyst	Principal systems analyst
Deputy clerk-senior systems analyst	Senior systems analyst
Deputy clerk-associate systems analyst	Associate systems analyst
Deputy clerk-assistant systems analyst	Assistant systems analyst
Deputy clerk-systems analyst trainee	Systems analyst trainee
Deputy clerk-sytems support analyst II	Systems support analyst II
Deputy clerk-sytems support analyst I	Systems support analyst I
Deputy clerk-sytems support analyst trainee	Systems support analyst trainee
Deputy clerk-LAN systems analyst I	DIS LAN systems analyst I
Deputy clerk-LAN systems analyst II	DIS LAN systems analyst II
Deputy clerk-LAN systems analyst III	DIS LAN systems analyst III
Deputy clerk-LAN systems supervisor	DIS LAN systems supervisor
Deputy clerk-municipal court computer specialist I	Department computer specialist I
Deputy clerk-municipal court computer specialist II	Departmental computer specialist II
Deputy clerk-municipal court computer specialist III	Departmental computer specialist III
Deputy clerk-senior accountant	Senior accountant
Deputy clerk-associate accountant	Associate accountant
Deputy clerk-assistant accountant	Assistant accountant
Deputy clerk-junior accountant	Junior accountant
Deputy clerk-law clerk	Law clerk

Deputy clerk-research attorney I	Deputy county counsel I
Deputy clerk-research attorney II	Deputy county counsel II
Deputy clerk-research attorney III	Deputy County Counsel III
Deputy clerk-research attorney IV	Deputy county counsel IV
Deputy clerk-legal assistant I	Legal assistant I
Deputy clerk-legal assistant II	Legal assistant II
Deputy clerk-administrative services manager I	Administrative services manager I
Deputy clerk-administrative services manager II	Administrative services manager II
Deputy clerk-administrative services manager III	Administrative services manager III
Deputy clerk-principal administrative analyst	Principal administrative analyst
Deputy clerk-analyst trainee	Analyst trainee
Deputy clerk-analyst I	Analyst I
Deputy clerk-analyst II	Analyst II
Deputy clerk-analyst III	Analyst III
Deputy clerk-substance abuse assessor I	Deputy probation officer
Deputy clerk-substance abuse assessor II	Deputy probation officer
Deputy clerk-revenue and recovery officer II	Revenue and recovery office
Deputy clerk-revenue and recovery officer III	Revenue and recovery office III
Deputy clerk-court referral officer II	Deputy probation officer
Deputy clerk-court referral officer I	Deputy probation officer
Deputy clerk-domestic violence counselor	Deputy probation officer
Deputy clerk-court collection officer I	Revenue and recovery officer I
Deputy clerk-court collection officer II	Revenue and recovery officer II
Deputy clerk-court collection officer III	Revenue and recovery officer III
Deputy clerk-pretrial services manager	Deputy probation officer
Deputy clerk-supervising pretrial services officer	Deputy probation officer
Deputy clerk-pretrail services officer	Deputy probation officer
Deputy clerk-volunteer program coordinator	Legal procedures clerk III

Notwithstanding the comparable classes set forth above, if pursuant to subdivision (e) of Section 73644, subdivision (g) of

Section 74344, subdivision (e) of Section 73954, and subdivision (g) of Section 74745, the class of deputy clerk IV is entitled to receive a biweekly salary at a rate equal to that specified for superior court clerks in the superior court service of the County of San Diego, the comparable county class for deputy clerk IV and senior deputy clerk shall be the superior court clerk in the superior court service of the County of San Diego, except with respect to benefits in which case the comparable county class shall be legal procedures clerk III. Further, notwithstanding the comparable classes set forth above, the comparable class for the class of deputy clerk-court interpreter for purposes of salary shall be the class of superior court clerk interpreter in the superior court service of the County of San Diego and the comparable class with respect to benefits shall be the class of legal procedures clerk III.

(c) Persons employed on or after January 1, 1975, in a class eligible for advancement in range shall receive the same step increases applicable to persons so employed in the County of San Diego on or after July 1, 1974. Persons employed prior to January 1, 1975, in a class eligible for advancement in range shall receive the same step increases applicable to persons so employed in the County of San Diego prior to July 1, 1975.

(d) Officers and attachés may be appointed to a class and position in the service of a court in one judicial district from the service of a court in another judicial district within the County of San Diego, from the service of the County of San Diego, from the service of the Superior Court of the County of San Diego, or from the service of the marshal, in the same manner that employees of the County of San Diego may be appointed in departments of the county. In determining the step of the salary range at which such employee shall be paid, the employee shall be given credit for the immediately preceding continuous prior service to a court, the marshal, or the County of San Diego.

(e) A promotion is an appointment to a class compensated at a higher base salary, at any like-numbered step, than the class relinquished. Upon promotion, an employee shall be placed at the lowest step which provides at least a 5-percent increase over the base salary of the step occupied in the former class, but in no event higher than the top step of the class to which promoted.

(f) A demotion is an appointment to a class compensated at a lower base salary, at any like-numbered step, than the class relinquished. Upon demotion, an employee shall be placed at the same numbered step in the class to which he or she was demoted as in the former class, except that the step shall not be set lower than the normal entry step. If the demotion is to the class in which the employee served immediately prior to being promoted, the employee's step shall be that held immediately prior to the promotion.

SEC. 60. Section 74348 of the Government Code is amended to read:

74348. (a) In addition to the salary provided in this article, the classes of attachés of the municipal court shall receive, and they shall be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classes specified in Section 74345. The court administrator shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the classification of chief probation officer of the County of San Diego. The assistant court administrator and deputy court administrators shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the classification of assistant chief probation officer of the County of San Diego. All persons employed as deputy clerk-division managers III, II, or I shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the classification of administrative assistant III of the classified service of the County of San Diego. However, all officers, employees, and attachés of the municipal court shall be eligible to enroll in the dental and vision group insurance plans sponsored by the County of San Diego. The purpose and intent of this subdivision is to provide all court attachés except judicial secretaries, commissioners, traffic trial commissioners, court reporters, and the traffic referee with any and all fringe benefits, but no more than those which are available to their comparable classes in the service of the County of San Diego as specified in this section or in Section 74345. Whenever action or approval by the chief administrative officer or the county personnel director is required for the county benefit, it shall be taken or given as to comparable municipal court officers and attachés other than those serving at the pleasure of the court, by the court administrator with the approval of a majority of the judges or their designees, or as to the court administrator and others serving at the pleasure of the court, by a majority of the judges or their designees. Changes in fringe benefits shall be effective on the same date as for employees of the County of San Diego in comparable classes. A majority of the judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court, excluding fringe benefits.

(b) All attachés other than the traffic referee, commissioners, traffic trial commissioners, court administrator, court reporters, judicial secretaries, and other persons serving at the pleasure of their appointing authority, may be appointed, promoted, removed, suspended, laid off, or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension, layoff, or discharge to civil service provisions applicable to the classified personnel of the County of San Diego. Whenever such attachés are appointed or promoted to a position, they must serve a probationary period of at least one year, but not to exceed 18 months, as specified in the job announcement for the class prior to appointment. If the San Diego County Charter is amended to repeal

the Civil Service Rules and the board of supervisors adopts new Personnel Rules, the reference to civil service provisions in this subdivision shall mean the personnel rule provisions.

SEC. 61. Section 74349 of the Government Code is amended to read:

74349. Official reporters in the Municipal Court of the San Diego Judicial District appointed pursuant to Section 72194 shall be attachés of such court and, in lieu of any other compensation provided by law for their services in reporting testimony and proceedings in such court, shall be paid a biweekly salary equal to that paid to regular official reporters for the Superior Court of the County of San Diego. There shall also be one official reporter appointed by the court as chief reporter, such appointment to be entered upon the minutes of the court, who shall receive compensation in the sum of 15 percent in addition to any sum otherwise provided by this section. These salaries shall be a charge against the general fund of the county. All persons employed in the class of chief reporter shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the chief reporter of the Superior Court of the County of San Diego.

Pursuant to Section 72194, the judges of such court may appoint as many additional reporters as the business of the court may require, who shall be known as official reporters pro tempore, and who shall serve without salary but shall receive the fees provided by Sections 69947 to 69953, inclusive, except that in lieu of the per diem fees provided in those sections for reporting testimony and proceedings, the official reporters pro tempore shall in all cases be compensated at a rate equal to that paid to official reporters pro tempore for the Superior Court of the County of San Diego, which shall be a charge against the general fund of the County of San Diego.

Fees for transcription of testimony and proceedings in the court shall be paid by the litigants to official reporters and official reporters pro tempore as otherwise provided by law. In all cases where by law the court may direct the payment of transcription fees out of the county treasury, those fees shall, upon order of the court, be paid from the general fund including fees for transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive.

Official reporters of the court shall be members of any retirement system maintained by the county. For the purpose of the retirement system the salary provided in this article for such reporters shall be deemed their entire compensation.

Notwithstanding Section 74348, official reporters serve at the pleasure of the judges and shall receive and be entitled to the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for the official reporters of the Superior Court of the County of San Diego.

SEC. 62. Section 74351 of the Government Code is amended to

read:

74351. The Municipal Courts of the County of San Diego shall establish administrative assessments not to exceed ten dollars ($10) for clerical and administrative costs incurred for the following activities:

(a) An assessment for the cost of recording and maintaining a record of the defendant's prior convictions for violations of the Vehicle Code. The assessment shall be payable at the time of payment of a fine or when bail is forfeited for any subsequent violations of the Vehicle Code other than parking, pedestrian, or bicycle violations.

(b) An assessment for all defendants whose driver's license or automobile registration is attached or restricted pursuant to Section 40509 or 40509.5 of the Vehicle Code to cover the cost of notifying the Department of Motor Vehicles of the attachment or restriction.

SEC. 63. Section 74351.5 of the Government Code is amended to read:

74351.5. The San Diego Municipal Court may establish a "900" telephone number or numbers for traffic, misdemeanor, and other telephonic arraignments, for court scheduling, and for rendering tentative civil decisions, provided the court provides an alternative method of obtaining the service or information in a timely manner and informs individuals of this alternative in the message, where technically and economically feasible, preceding the "900" information. The proceeds from these "900" telephone numbers shall be continuously and solely appropriated to the use of the San Diego Municipal Court for staff, information services, and data processing services for the purposes specified in this section.

SEC. 64. Section 74352 of the Government Code is amended to read:

74352. By order entered upon the minutes of the court, a majority of the judges of the municipal court of the San Diego Judicial District may appoint as many competent judicial secretaries as the business of the court requires, not to exceed eight, who shall serve at the pleasure of the judges of the court. One of these secretaries shall be appointed by a majority of the judges as the chief judicial secretary and, while serving in that capacity, shall receive a biweekly salary at a rate 25 percent higher than that specified for judicial secretary. Appointment to such position shall be at step 5. All persons employed in the class of chief judicial secretary shall receive the same holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the chief judicial secretary of the Superior Court of the County of San Diego.

A judicial secretary other than the chief judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego. Appointments to judicial secretary may be at any step within the salary range.

Whenever the salary of administrative secretary IV of the classified

service of the County of San Diego is adjusted by the Board of Supervisors of the County of San Diego, the salaries of the chief judicial secretary and judicial secretaries shall be adjusted a commensurate percentage on the same date, such adjustments to take effect on the effective date of any amendments to this article.

Notwithstanding Section 74348, judicial secretaries shall receive and be entitled to the same number of holidays, leaves of absence and all other fringe benefits as are now or may hereafter be provided for administrative secretary IV in the classified service of the County of San Diego. However, the chief judicial secretary and judicial secretaries shall be entitled to: (a) earn sick leave credit at the rate of 5.385 percent of each hour of paid service during the pay period; (b) earn vacation credit at the rate of 5.769 percent of each hour of paid service during the pay period and accumulate vacation credit not to exceed 25 working days where the employee has less than 10 years of continuous service; and (c) earn vacation credit at the rate of 8.075 percent of each hour of paid service during the pay period and accumulate vacation credit not to exceed 35 working days where the employee has 10 years or more of continuous service.

SEC. 65. Section 74355 of the Government Code is amended to read:

74355. This article applies jointly to the four municipal courts established in this chapter as the El Cajon Judicial District, North County Judicial District, San Diego Judicial District, and South Bay Judicial District for purposes of establishing positions, and compensation for these positions, for the Municipal Court Information Services Unit and the San Diego County Pretrial Services Unit.

SEC. 66. Section 74356 of the Government Code is amended to read:

74356. (a) A majority of the Court Administrators of the Municipal Courts of San Diego County may appoint one deputy clerk-information services manager-municipal courts who shall serve at the pleasure of a majority of the Court Administrators of the Municipal Courts of San Diego County. The biweekly salary of the deputy clerk-information services manager-municipal courts shall be within the biweekly rate range ES-9 indicated in the Compensation Ordinance of the County of San Diego. The biweekly salary, and any advancement or reduction within the range, shall be determined in accordance with the provisions set forth under Article 3.5 of the Compensation Ordinance of the County of San Diego and of subdivision (a) of Section 74345, except that any reference to "executive compensation committee" or "chief administrative officer" in Article 3.5 of the Compensation Ordinance of the County of San Diego shall be interpreted as "a majority of the Court Administrators of the Municipal Courts of San Diego County."

(b) The work plan of the Municipal Court Information Services Unit shall be determined by a majority of the Court Administrators of the Municipal Courts of San Diego County with policy direction

of their respective judges. For the purpose of this subdivision, any determination by a majority of the Court Administrators of the Municipal Courts of San Diego County shall be made by a vote of the Court Administrators of the Municipal Courts of San Diego County with the votes weighted as follows: San Diego Municipal Court Administrator, 40 percent; each of the other three Municipal Court Administrators, 20 percent.

SEC. 67. Section 74357 of the Government Code is amended to read:

74357. A majority of the Court Administrators of the Municipal Courts of San Diego County may appoint for the Municipal Court Information Services Unit, as follows:

(a) Nine deputy clerk-principal systems analysts, senior systems analysts, associate systems analysts, assistant systems analysts, or systems analyst trainees, as the case may be. A deputy clerk-principal systems analyst shall receive a biweekly salary at a rate equal to that specified for principal systems analyst in the classified service of the County of San Diego. A deputy clerk-senior systems analyst shall receive a biweekly salary at a rate equal to that specified for senior systems analyst in the classified service of the County of San Diego. A deputy clerk-associate systems analyst shall receive a biweekly salary at a rate equal to that specified for associate systems analyst in the classified service of the County of San Diego. A deputy clerk-assistant systems analyst shall receive a biweekly salary at a rate equal to that specified for assistant systems analyst in the classified service of the County of San Diego. A deputy clerk-systems analyst trainee shall receive a biweekly salary at a rate equal to that specified for systems analyst trainee in the classified service of the County of San Diego.

(b) Two deputy clerk-LAN systems supervisors, or deputy clerk-LAN systems analysts III, II, or I, as the case may be. A deputy clerk-LAN systems supervisor shall receive a biweekly salary at a rate equal to that specified for DIS LAN systems supervisor in the classified service of the County of San Diego. A deputy clerk-LAN systems analyst III shall receive a biweekly salary at a rate equal to that specified for DIS LAN systems analyst III in the classified service of the County of San Diego. A deputy clerk-LAN systems analyst II shall receive a biweekly salary at a rate equal to that specified for DIS LAN systems analyst II in the classified service of the County of San Diego. A deputy clerk-LAN systems analyst I shall receive a biweekly salary at a rate equal to that specified for DIS LAN systems analyst I in the classified service of the County of San Diego.

(c) One deputy clerk-administrative secretary III, II, or I, as the case may be. A deputy clerk-administrative secretary III shall receive a biweekly salary at a rate equal to that specified for administrative secretary III in the classified service of the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at a rate equal to that specified for administrative secretary II in the classified service of the County of San Diego. A deputy

clerk-administrative secretary I shall receive a biweekly salary at a rate equal to that specified for administrative secretary I in the classified service of the County of San Diego.

(d) One deputy clerk-analyst III, II, or I, or deputy clerk-analyst trainee, as the case may be. A deputy clerk-analyst III shall receive a biweekly salary at a rate equal to that specified for analyst III in the classified service of the County of San Diego. A deputy clerk-analyst II shall receive a biweekly salary at a rate equal to that specified for analyst II in the classified service of the County of San Diego. A deputy clerk-analyst I shall receive a biweekly salary at a rate equal to that specified for analyst I in the classified service of the County of San Diego. A deputy clerk-analyst trainee shall receive a biweekly salary at a rate equal to that specified for analyst trainee in the classified service of the County of San Diego.

(e) Notwithstanding subdivision (b) of Section 74359, up to five temporary extra help deputy clerk-municipal court trainees V, III, II, or I, as the case may be, who shall be paid at an hourly rate and shall serve at the pleasure of a majority of the Court Administrators of the Municipal Courts of San Diego County. A deputy clerk-municipal court trainee V shall receive an hourly salary at a rate equal to that specified for student worker V in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee III shall receive an hourly salary at a rate equal to that specified for student worker III in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee II shall receive an hourly salary at a rate equal to that specified for student worker II in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee I shall receive a biweekly salary at a rate equal to that specified for student worker I in the unclassified service of the County of San Diego. Persons who graduate and receive a degree in the field which qualified them for appointment to a deputy clerk-municipal court trainee class, may remain in the class and be employed on a full-time basis for a period not to exceed six months from the first day of the month following their date of graduation.

(f) Notwithstanding subdivision (b) of Section 74359, up to five extra help positions (hourly rate) to be appointed by and serve at the pleasure of a majority of the Court Administrators of the Municipal Courts of San Diego County in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months at the option of a majority of the Court Administrators of the Municipal Courts of San Diego County. Notwithstanding any other provisions of this section, the Court Administrators of the Municipal Courts of San Diego County may fill these positions with persons employed for a period not to exceed 120 working days or 960 hours, whichever is greater, during a fiscal year on a part-time basis.

(g) Notwithstanding subdivision (b) of Section 74359, up to five deputy clerk-court workers may be appointed by and serve at the

pleasure of a majority of the Court Administrators of the Municipal Courts of San Diego County. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Section 74345 pending a review and evaluation of the duties of these positions by the Court Administrators of the Municipal Courts of San Diego County, and the establishment of specific classes as provided in this section. Prior to the establishment of these classes, the county personnel director shall conduct a classification review and make recommendations to the Court Administrators of the Municipal Courts of San Diego County as to the establishment of these classes. The rate of pay for each individual employed in this class shall be within the designated range at a rate determined by the Court Administrators of the Municipal Courts of San Diego County following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months in duration.

Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When that appointment is made, the class, compensation (including salary and fringe benefits), and number of those positions may be established by joint action of a majority of the Judges of the Municipal Courts of San Diego County and the board of supervisors in accordance with established county personnel and budgetary procedures. In the event that the class pending establishment is tied to a class in the unclassified service of the County of San Diego, the joint action may designate that person serving in the class pending establishment shall serve at the pleasure of the Court Administrators of the Municipal Courts of San Diego County. By a majority vote, the Court Administrators of the Municipal Courts of San Diego County may then appoint additional attachés to these classes in the same manner as those for which express provision is made, and they shall receive compensation as provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the majority of the Judges of the Municipal Courts of San Diego County and the board of supervisors.

(h) Except as provided herein, the provisions of Section 74345 shall apply to the attachés appointed pursuant to this section and Section 74356.

(i) Notwithstanding any other provision of law, the number of positions in classifications authorized under subdivisions (a) to (g), inclusive, of this section may be increased by up to 10 additional positions by joint action of the majority of the Judges of the Municipal

Courts of San Diego County and the board of supervisors in accordance with established county personnel and budgetary procedures. The rules regarding appointments of persons to these positions shall be the same as those applicable to the class of the positions. The action of a majority of the Judges of the Municipal Courts of San Diego County and the resolution of the board of supervisors adjusting these positions shall designate the class title or titles and number of positions to be added to each respective class. Any adjustment made pursuant to this subdivision shall be effective upon the adoption of a resolution by the board of supervisors and shall remain in effect only until January 1 of the second year following the year in which a resolution is adopted, unless earlier ratified by the Legislature.

SEC. 68. Section 74358 of the Government Code is amended to read:

74358. Any positions authorized by Section 74357 may be filled by independent contractors on a contractual basis with the approval of a majority of the Court Administrators of the Municipal Courts of San Diego County. Should any of the positions be filled by independent contractors on a contractual basis, Section 74359 shall not apply for these positions only.

SEC. 69. Section 74359 of the Government Code is amended to read:

74359. (a) In addition to the salary provided in this article, the attachés of the Municipal Court Information Services Unit shall receive, and they shall be entitled to, the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classes specified in Section 74345.

The deputy clerk-information services manager-municipal courts shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the classification of Deputy Director-Information Services of the County of San Diego. However, all employees of the Municipal Court Information Services Unit shall be eligible to enroll in the dental and vision group insurance plans sponsored by the County of San Diego.

The purpose and intent of this subdivision is to provide all Municipal Court Information Services Unit employees with any and all fringe benefits, but no more than those which are available to their comparable classes in the service of the County of San Diego as specified in this section or in Section 74345. Whenever action or approval by the chief administrative officer or the county personnel director is required for the county benefit, it shall be taken or given as to comparable Municipal Court Information Services Unit employees, other than those serving at the pleasure of the majority of the Court Administrators of the Municipal Courts of San Diego County, by a majority of the Court Administrators of the Municipal Courts of San Diego County. Changes in fringe benefits shall be effective on the same date as those for employees of the County of

San Diego in comparable classes. A majority of the Court Administrators of the Municipal Courts of San Diego County may adopt rules for the conduct of the personnel privileges afforded the attachés of the court, excluding fringe benefits.

(b) All employees, other than those persons serving at the pleasure of their appointing authority, may be appointed, promoted, removed, suspended, laid off, or discharged for cause by a majority of the Court Administrators of the Municipal Courts of San Diego County subject in that appointment, promotion, removal, suspension, layoff, or discharge to civil service provisions applicable to the classified personnel of the County of San Diego. Whenever these employees are appointed or promoted to a position, they must serve a probationary period of one year. If the San Diego County Charter is amended to repeal the Civil Service Rules and the board of supervisors adopts new Personnel Rules, the reference to civil service provisions in this subdivision shall mean the personnel rule provisions.

SEC. 70. Section 74359.1 is added to the Government Code, to read:

74359.1. A majority of the Court Administrators of the Municipal Courts of San Diego County may make appointments to the San Diego County Pretrial Services Unit, as follows:

(a) Six deputy clerks III, II, or I or deputy clerk-intermediate clerk typists, as the case may be. Each deputy clerk III shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk III in the classified service of the County of San Diego. Each deputy clerk II shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk II in the classified service of the County of San Diego. Each deputy clerk I shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk I in the classified service of the County of San Diego. Appointments to deputy clerk I may be at any step within the salary range at the discretion of a majority of the Court Administrators of the Municipal Courts of San Diego County. A deputy clerk-intermediate clerk typist shall receive a biweekly salary at a rate equal to that specified for intermediate clerk typist in the classified service of the County of San Diego. One of these positions may be filled at the level of deputy clerk-intermediate clerk typist.

(b) Notwithstanding subdivision (b) of Section 74359.2, up to 20 temporary extra help deputy clerk-municipal court trainees V, III, II, or I, as the case may be, who shall be paid at an hourly rate and shall serve at the pleasure of a majority of the Court Administrators of the Municipal Courts of San Diego County. A deputy clerk-municipal court trainee V shall receive a biweekly salary at a rate equal to that specified for student worker V in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee III shall receive a biweekly salary at a rate equal to that specified for student worker III in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee II shall receive a biweekly

salary at a rate equal to that specified for student worker II in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee I shall receive a biweekly salary at a rate equal to that specified for student worker I in the unclassified service of the County of San Diego. Persons who graduate and receive a degree in the field which qualified them for appointment to a deputy clerk-municipal court trainee class, may remain in the class and be employed on a full-time basis for a period not to exceed six months from the first day of the month following their date of graduation.

(c) One deputy clerk-pretrial services manager who shall receive a biweekly salary at a rate 22.46 percent higher than that specified for deputy clerk-supervising pretrial services officer.

(d) Four deputy clerk-supervising pretrial services officers who shall receive a biweekly salary at a rate 7.25 percent higher than that specified for deputy clerk-pretrial services officer.

(e) Eight deputy clerk-pretrial services officers who shall receive a biweekly salary at a rate equal to that specified for deputy probation officer in the classified service of the County of San Diego.

(f) Notwithstanding subdivision (b) of Section 74359.2, up to three extra help positions (hourly rate) to be appointed by and serve at the pleasure of a majority of the Court Administrators of the Municipal Courts of San Diego County in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the option of a majority of the Court Administrators of the Municipal Courts of San Diego County. Notwithstanding any other provisions of this section, a majority of the Court Administrators of the Municipal Courts of San Diego County may fill these positions with persons employed for a period not to exceed 120 working days or 960 hours, whichever is greater, during a fiscal year on a part-time basis.

(g) Notwithstanding subdivision (b) of Section 74359.2, up to two deputy clerk-court workers may be appointed by and serve at the pleasure of a majority of the Court Administrators of the Municipal Courts of San Diego County. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Section 74345 pending a review and evaluation of the duties of these positions by the Court Administrators of the Municipal Courts of San Diego County, and the establishment of specific classes as provided in this section. Prior to the establishment of these classes, the county personnel director shall conduct a classification review and make recommendations to the Court Administrators of the Municipal Courts of San Diego County as to the establishment of these classes. The rate of pay for each individual employed in this class shall be within the designated range at a rate determined by a majority of the Court Administrators of the Municipal Courts of San Diego County following consultation with the county personnel director. The rules regarding appointment and compensation as they

relate to appointments of deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months in duration. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When an appointment is made, the class, compensation (including salary and fringe benefits), and number of these positions may be established by joint action of a majority of the Judges of the Municipal Courts of San Diego County and the board of supervisors in accordance with established county personnel and budgetary procedures. In the event that the class pending establishment is tied to a class in the unclassified service of the County of San Diego, the joint action may designate that the person serving in the class pending establishment shall serve at the pleasure of the Court Administrators of the Municipal Courts of San Diego County. A majority of the Court Administrators of the Municipal Courts of San Diego County may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the majority of the Judges of the Municipal Courts of San Diego County and the board of supervisors.

(h) The positions identified in subdivisions (a) to (g), inclusive, shall be administered by one Court Administrator, selected by a majority of the Court Administrators of the Municipal Courts of San Diego County, subject to policy direction of a majority of the Court Administrators of the Municipal Courts of San Diego County. The purpose and intent of this subdivision is to allow the Court Administrators of the Municipal Courts of San Diego County to determine the work assignments of pretrial services personnel.

(i) Except as provided herein, Section 74345 shall apply to the attachés appointed pursuant to this section.

(j) Notwithstanding any other provision of law, the number of positions in classifications authorized under subdivisions (a) to (g), inclusive, may be increased by up to four additional positions by joint action of a majority of the Judges of the Municipal Courts of San Diego County and the board of supervisors in accordance with established county personnel and budgetary procedures. The rules regarding appointments of persons to these positions shall be the same as those applicable to the class of such positions. The action of a majority of the Judges of the Municipal Courts of San Diego County and the resolution of the board of supervisors adjusting these positions shall designate the class title or titles and number of positions to be added to each respective class. Any adjustment made pursuant to this subdivision shall be effective upon the adoption of

a resolution by the board of supervisors and shall remain in effect only until January 1 of the second year following the year in which a resolution becomes effective, unless earlier ratified by the Legislature.

SEC. 71. Section 74359.2 is added to the Government Code, to read:

74359.2. (a) In addition to the salary provided in this article, the classes of attachés of the San Diego County Pretrial Services Unit shall receive, and they shall be entitled to, the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classes specified in Section 74345. The deputy clerk-pretrial services manager shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the classification of administrative assistant III of the classified service of the County of San Diego. The deputy clerk-supervising pretrial services officer and deputy clerk-pretrial services officer shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the classification of legal procedures clerk III of the classified service of the County of San Diego. However, all employees of the San Diego County Pretrial Services Unit shall be eligible to enroll in the dental and vision group insurance plans sponsored by the County of San Diego. The purpose and intent of this subdivision is to provide all San Diego County Pretrial Services Unit employees with any and all fringe benefits, but no more than those which are available to their comparable classes in the service of the County of San Diego as specified in this section or in Section 74345. Whenever action or approval by the chief administrative officer or the county personnel director is required for the county benefit, it shall be taken or given as to comparable San Diego County Pretrial Services Unit employees, by a majority of the Court Administrators of the Municipal Courts of San Diego County. Changes in fringe benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classes. A majority of the Court Administrators of the Municipal Courts of San Diego County may adopt rules for the conduct of and personnel privileges afforded the attachés of the court, excluding fringe benefits.

(b) All employees, other than those persons serving at the pleasure of the Court Administrators of the Municipal Courts of San Diego County, may be appointed, promoted, removed, suspended, laid off, or discharged for cause by a majority of the Court Administrators of the Municipal Courts of San Diego County subject in that appointment, promotion, removal, suspension, layoff, or discharge to civil service provisions applicable to the classified personnel of the County of San Diego. Whenever these employees are appointed or promoted to a position, they must serve a probationary period of one year. If the San Diego County Charter is

amended to repeal the Civil Service Rules and the board of supervisors adopts new Personnel Rules, the reference to civil service provisions in this subdivision shall mean the personnel rule provisions.

SEC. 72. Section 74368 of the Government Code is amended to read:

74368. The marshal may make the following appointments:

(a) One assistant marshal.

(b) Four captains.

(c) Five lieutenants.

(d) Twenty sergeants.

(e) One hundred eighty-seven deputy marshals.

Any deputy marshal who may be assigned by the marshal to one of 10 positions designated as lead deputy shall receive, while serving in that capacity, biweekly compensation at a rate 5 percent higher than that received by the deputy.

The marshal may, at his or her discretion, fill a deputy marshal or court service officer position by accepting a lateral transfer from another California peace officer agency. The transferee shall have completed a California P.O.S.T. certified basic academy and been employed for at least one year in a position enumerated in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code within the past three years.

(f) One administrative secretary I, II, or III.

(g) One administrative services manager I, II, or III or administrative assistant III.

(h) One accounting technician.

(i) Two senior typists.

(j) Thirty-five field service officers.

Notwithstanding any other provisions of this article, in no event shall a field service officer's salary be less than 65 percent of the salary of a deputy marshal at the corresponding pay step. The field service officer is a peace officer trainee position which requires appointees to be at least 18 years of age and meet the qualifications and standards prescribed for deputy marshals. At the time an incumbent in the class of field service officer attains the age of 21, he or she may be appointed by the marshal to a position in the class of deputy marshal or court service officer, provided such position is open, without further qualification or examination.

A field service officer shall receive 65 percent of the uniform allowance prescribed for deputy marshals. In the event that a field service officer is appointed to the class of deputy marshal or court service officer, he or she shall receive the amount of reimbursement of the cost of required uniforms and equipment prescribed for a newly hired deputy marshal or court service officer, less any reimbursement received by him or her for the cost of required field service officer uniforms and equipment.

(k) One departmental computer specialist I, II, or III.

(*l*) Nine legal procedures clerks III.

(m) Forty-three legal procedures clerks II or I.

(n) Ninety-six court service officers. In no event shall a court service officer's salary be less than 80 percent of a deputy marshal at the corresponding pay step. A court service officer shall receive the same uniform allowance prescribed for a deputy marshal, under the same conditions prescribed for deputy marshals. The marshal may appoint a court service officer to a vacant position of deputy marshal without further qualification or examination. In the event that a court service officer is appointed to the class of deputy marshal, he or she shall receive the amount of reimbursement prescribed for a newly hired deputy marshal, less any reimbursement received by him or her for the cost of required court service officer uniforms and equipment. Court service officers shall be peace officers pursuant to Section 830.36 of the Penal Code. Notwithstanding any other provision of law, court service officers shall be general members of the county employees retirement system.

Any court service officer who meets length of service, educational and performance requirements established by the marshal and approved by the county personnel director may receive a biweekly compensation at a rate 7½ percent higher than that otherwise received by a court service officer.

(o) Any person specified in subdivision (f) or (i), who may be assigned by the marshal to one of the positions designated as executive secretary or administrative-personnel secretary shall receive, while serving in that capacity, biweekly compensation at a rate 10 percent higher than that specified for such person's class and step.

(p) Two supervising legal services clerks.

(q) Three marshal's communications dispatchers I or II.

(r) Two administrative assistants III, II, I, or trainee.

(s) Two senior systems analysts.

(t) Notwithstanding Section 74369, up to 15 extra help positions (hourly rate) to be appointed at a level as determined by and serve at the pleasure of the marshal. Such appointments shall be temporary for a period not to exceed six months, plus one additional period at the marshal's option, not to exceed six months. Notwithstanding any other provisions of this section, the marshal may fill these positions with persons employed for less than 121 working days during a fiscal year on a part-time basis.

(u) Notwithstanding Section 74369, the marshal may appoint up to six temporary extra help marshal student workers I, II, or III who shall be paid at an hourly rate and shall serve at the pleasure of the marshal. A marshal student worker I, II, or III shall receive an hourly salary at the rate equal to that specified for the class of student worker I, II, or III respectively in the unclassified service of the County of San Diego. Persons who graduate and receive a degree in the field which qualified them for appointment to a marshal student worker class may remain in the class and be employed on a full-time basis for up to six months from the first day of the month following

their date of graduation.

(v) Two associate systems analysts or assistant systems analysts.

(w) Notwithstanding Section 74369, up to five provisional workers may be appointed by and serve at the pleasure of the marshal. The class of provisional worker provides for temporary appointments to positions in classes not listed in Section 74370 pending a review and evaluation of the duties of these positions by the marshal, and the establishment of specific classes as provided in this subdivision. Prior to the establishment of those classes, the county personnel director shall conduct a classification review and make recommendations to the marshal as to the establishment of such classes. The rate of pay for each individual employed in this class of provisional worker shall be within the range proposed for the class pending establishment, at a rate determined by the marshal following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to provisional workers shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months. Employee benefits, if applicable, shall be equal to those granted to the class in the service of the County of San Diego to which the pending class will be tied for benefit purposes. When such an appointment is made, the class, compensation (including salary and fringe benefits), and number of such positions may be established by joint action of the marshal and the board of supervisors in accordance with established county personnel and budgetary procedures. The marshal may then appoint additional attachés to such classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying provisional worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the marshal and the board of supervisors.

(x) Notwithstanding any other provision of law, the number of positions in classifications authorized under subdivisions (b) to (s), inclusive, (u), (v) and (w) of this section may be increased by up to 100 additional positions by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The rules regarding appointment and compensation (including salary and fringe benefits) as they relate to appointments of persons to such positions shall be the same as those applicable to the class of such positions. The action of the majority of the judges and the resolution of the board of supervisors adjusting those positions shall designate the class title or titles and number of positions to be added to each respective class. Any adjustment made pursuant to this subdivision shall be effective on adoption of the resolution by the board of supervisors and shall remain in effect only until January 1 of the second year following the

year in which this subdivision becomes effective, unless earlier ratified by the Legislature.

SEC. 73. Section 74369 of the Government Code is amended to read:

74369. Except where this article or other provisions of state law specifically otherwise provides, the provisions of then current ordinances and resolutions of the board of supervisors and the rules for the classified service of the County of San Diego shall govern the appointment and assignment of officers, deputies, and attachés to the offices and positions enumerated in this article, and shall define their compensation (including salary and fringe benefits), rights, and privileges. All assistants, deputies, and other employees of the Marshal of San Diego County, other than those specified as serving at the pleasure of the marshal, may be appointed, promoted, removed, suspended, laid off, or discharged for cause by the said marshal, subject in such appointment, promotion, removal, suspension, lay off, or discharge to all civil service provisions applicable to the classified personnel of the office of Sheriff, County of San Diego. If the San Diego County Charter is amended to repeal the Civil Service Rules and the board of supervisors adopts new Personnel Rules, the reference to civil service provisions in this section shall mean the personnel rule provisions.

SEC. 74. Section 74370 of the Government Code is amended to read:

74370. (a) The hereinafter enumerated classes of positions in the marshal's office of San Diego County are deemed to be equivalent in job, salary level, and fringe benefit level to certain classes in the service of the County of San Diego and whenever the salary and fringe benefit level of a class in the service of the County of San Diego is adjusted by the board of supervisors, the salary and fringe benefit level of the equivalent class in the marshal's office shall be adjusted in the same amount, effective on the same date.

The equivalent classes are as follows:

Marshal class	County class
Assistant marshal	Assistant sheriff
Captain	Deputy sheriff-captain
Lieutenant	Deputy sheriff-lieutenant
Sergeant	Deputy sheriff-sergeant
Deputy marshal	Deputy sheriff
Court service officer	Revenue and recovery officer II
Field service officer	Revenue and recovery officer trainee
Legal procedures clerk III	Legal procedures clerk III
Legal procedures clerk II	Legal procedures clerk II
Legal procedures clerk I	Legal procedures clerk I
Senior typist	Senior clerk-typist
Administrative assistant III	Administrative assistant III

Administrative assistant II	Administrative assistant II
Administrative assistant I	Administrative assistant I
Administrative trainee	Administrative trainee
Accounting technician	Accounting technician
Senior systems analyst	Senior systems analyst
Associate systems analyst	Associate systems analyst
Assistant systems analyst	Assistant systems analyst
Department computer specialist III	Department computer specialist III
Department computer specialist II	Department computer specialist II
Department computer specialist I	Department computer specialist I
Administrative secretary III	Administrative secretary III
Administrative secretary II	Administrative secretary II
Administrative secretary I	Administrative secretary I
Administrative services manager I	Administrative services manager
Administrative services manager II	Administrative services manager
Administrative services manager III	Administrative services manager
Supervising legal services clerk	Supervising legal services clerk
Marshal's Communications Dispatcher	Sheriff's Communications Dispatcher

(b) In addition to the salary provided in this article, officers, deputies, and other attachés of the marshal's office shall receive, and they shall be entitled to, the same number of holidays, leaves of absence, retirement benefits, deferred compensation benefits, and all other fringe benefits as are now or may hereafter be provided for the specified comparable employees of the County of San Diego.

For purposes of providing the fringe benefits specified in this section, each class in the marshal's office shall receive benefits equal to those of the comparable class in the service of the County of San Diego as specified in this section. The marshal shall receive the same fringe benefits received by the classification of Chief Probation Officer of the County of San Diego. However, all officers, deputies, and other attachés of the marshal's office shall be eligible to enroll in the dental and vision group insurance plans sponsored by the County of San Diego.

The purpose and intent of this subdivision is to provide all marshal's personnel with any and all fringe benefits, but no more than those, which are available to their comparable classes in the service of the County of San Diego, as specified in this section. Whenever action or approval by the chief administrative officer or the county personnel director is required for a county benefit, it shall be taken or given as to comparable marshal's employees, by the

marshal, or as to the marshal by the majority of the judges or their designees. Changes in fringe benefits shall be effective on the same date as those for employees of the County of San Diego in the specified comparable classes. The marshal may adopt rules for the conduct of, and personnel privileges to be afforded to, marshal employees, excluding fringe benefits.

SEC. 76. Section 74604 of the Government Code is amended to read:

74604. There shall be one clerk of the court known as the court executive officer, who shall be appointed by the presiding judge with the concurrence of a majority of the judges of the court, and shall hold office at the pleasure of the majority of the judges of the court. The monthly compensation to be paid to the court executive officer shall be Range 2948, Step 5, of the San Luis Obispo County Salary Table. In addition to any other duties imposed on such officer by law, the court executive officer shall have the following duties:

(a) To direct and coordinate the nonjudicial activities of the court.

(b) To coordinate the personnel practices in compliance with rules of the court.

(c) To prepare and administer the budget of the court.

(d) To coordinate with other county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for operation of the court.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge relating to the business of the court, including, but not limited to, such matters as standardization of forms, procedures, and classification and compensation of officers and employees.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the court and to prepare periodic reports and recommendations based on such data.

(g) To serve as liaison for the court with other persons, committees, boards, groups, and associations as directed by the presiding judge.

(h) To provide for and conduct a program of in-service training for the personnel of the municipal court.

SEC. 77. Section 74607 of the Government Code is amended to read:

74607. The presiding judge may make appointments to the following authorized positions:

Number	Classification	Salary Range
1	Assistant Court Executive Officer	2010
1	Calendar Coordinator	1246
2	Calendar Coordinator—1/2 time	1246
11	Municipal Court Clerk Trainee, or	0947
	Municipal Court Clerk I, or	1036
	Municipal Court Clerk II	1113
2	Municipal Court Clerk Trainee—1/2 time, or	0947
	Municipal Court Clerk I—1/2 time, or	1036
	Municipal Court Clerk II—1/2 time	1113
2	Municipal Court Account Technician	1078
3	Municipal Court Account Clerk	0844
1	Accountant I, or	1345
	Accountant II, or	1540
	Accountant III	1822
28	Municipal Court Legal Process Clerk, or	0791
	Municipal Court Legal Process Clerk I, or	0947
	Municipal Court Legal Process Clerk II, or	1036
	Municipal Court Legal Process Clerk III	1098
2	Municipal Court Legal Process Clerk III—1/2 time	1098
4	Supervising Municipal Court Clerk	1246
1	Administrative Services Officer I, or	1345
	Administrative Services Officer II	1540
1	Court Data Manager	2163
1	Mail Clerk	0791

SEC. 78. Section 74642 of the Government Code is amended to read:

74642. Within the Santa Barbara Judicial District there shall be the following officers, attachés, and employees:

Santa Barbara Municipal Court		Salary Range
1	Accountant II—Ct.	483
2	Account Clerk II—Ct.	368
1	Accounting Technician I—Ct.	423
1	Administrative Assistant II—Ct.	469
1	Assistant Clerk-Admin. Officer (SB)	546
4	Own Recognizance Officer	476
1	Own Recognizance Supervisor	496
1	Clerk-Administrative Officer (SB)	596
2	Collections Rep.—Ct.	421
2	Commissioner, Municipal Court	3,025
1	Court Clerk Chief—Ct.	497
2	Court Interpreter	434

1	Department Automation Specialist Senior—Ct.	492
1	Exec. Secretary—Ct.	441
33	Judicial Asst. I—Ct.	385
2	Judicial Asst. I—Ct. D	385
12	Judicial Asst. III-—Ct.	434
1	Judicial Asst. III—Ct. D	434
1	Judicial Asst. III—Ct. H	434
1	Judicial Cal. Coord.—Ct.	477
5	Judicial Services Supv.—Ct.	453
1	Official Court Reporter—C	528
1	Official Court Reporter—E	528
1	Official Court Reporter—Municipal Court	528

SEC. 79. Section 74643 of the Government Code is amended to read:

74643. Within the Santa Maria Judicial District there shall be the following officers, attachés, and employees:

	Santa Maria Municipal Court	Salary Range
1	Account Tech.—Ct.	423
1	Asst. Clerk—Administrative Officer (SM)	506
2	Own Recognizance Officer	476
1	Own Recognizance Officer	496
1	Clerk-Administrative Officer (SM)	556
1	Commissioner, Municipal Court	3,025
2	Court Interpreter	434
1	Department Automation Specialist—Ct.	460
1	Executive Secretary—Ct.	441
13	Judicial Asst. I—Ct.	385
6	Judicial Asst. II—Ct.	410
5	Judicial Asst. III—Ct.	434
3	Judicial Services Supv.—Ct.	453
1	Legal Research Asst.—D	604

SEC. 80. Section 74644 of the Government Code is amended to read:

74644. Within the Lompoc Judicial District there shall be the following officers, attachés, and employees:

	Municipal Court—Lompoc	Salary Range
1	Asst. Clerk-Admin. Officer (Lompoc)	486
1	Clerk-Administrative Officer (Lompoc)	536
6	Judicial Asst. I—Ct.	385
2	Judicial Asst. III—Ct.	434

SEC. 81. Section 74644.5 of the Government Code is amended to read:

74644.5. On the operative date of this section, as provided in

subdivision (a) of Section 74644.1, the positions prescribed in Sections 74642, 74643, and 74644 for the marshal's offices of the Santa Barbara Municipal Court, the Santa Maria Municipal Court, and the Lompoc Municipal Court shall be abolished, and within the municipal and justice court judicial districts, there shall be the following officers, attachés, and employees:

Number	Position	Salary Range
Marshal of Santa Barbara County		
2	Assistant Marshal	544
16	Deputy Marshal	488
6	Judicial Assistant I - Marshal	385
2	Judicial Assistant II - Marshal	410
1	Legal Services Specialist	410
4	Marshal's Sergeant	523
1	Clerk Principal	441
1	Santa Barbara Marshal	584

SEC. 82. Section 74745 of the Government Code is amended to read:

74745. The court administrator may appoint with the approval of the judges:

(a) Three deputy court administrators. Persons appointed to this position on or after January 1, 1993, shall serve at the pleasure of the court administrator. The deputy court administrators shall receive a salary within the biweekly rate range ES-6 indicated in the Compensation Ordinance of the County of San Diego. The biweekly salary, and any advancement or reduction within the range, shall be determined in accordance with the provisions set forth under Article 3.5 of the Compensation Ordinance of the County of San Diego and of subdivision (a) of Section 74345, except that any reference to "executive compensation committee" or "the chief administrative officer" in Article 3.5 of the Compensation Ordinance of the County of San Diego shall be interpreted as "the court administrator." Notwithstanding subdivision (b) of Section 74749, persons who hold the position of deputy clerk-administrative services manager III, deputy clerk division manager III and II on January 1, 1993, may be appointed by the court administrator to the position of deputy clerk-deputy court administrator without further examination subject to certification by the court administrator that the person possesses the minimum qualifications and necessary skills to perform the duties of the position.

(b) One deputy clerk-administrative assistant trainee, I, II, or III as the case may be. A deputy clerk-administrative assistant trainee shall receive a biweekly salary at a rate equal to that specified for administrative trainee in the classified service of the County of San Diego. A deputy clerk-administrative assistant I shall receive a

biweekly salary at a rate equal to that specified for administrative assistant I in the classified service of the County of San Diego. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for administrative assistant II in the classified service of the County of San Diego. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for administrative assistant III in the classified service of the County of San Diego.

(c) One deputy clerk-division manager I or II, as the case may be. A division manager I shall receive a biweekly salary at a rate 10 percent higher than that specified for deputy clerk V in the San Diego Judicial District. A division manager II shall receive a biweekly salary at a rate 15.5 percent higher than that specified for deputy clerk V in the San Diego Judicial District.

(d) Seven deputy clerks V each of whom shall receive a biweekly salary equal to that specified for deputy clerk V in the San Diego Municipal Court. The duties of the class of deputy clerk V shall include supervisory responsibilities.

(e) One deputy clerk-assistant, associate, or senior accountant, as the case may be. A deputy clerk-assistant accountant shall receive a biweekly salary at a rate equal to that specified for assistant accountant in the classified service of the County of San Diego. A deputy clerk-associate accountant shall receive a biweekly salary at a rate equal to that specified for associate accountant in the classified service of the County of San Diego. A deputy clerk-senior accountant shall receive a biweekly salary at a rate equal to that specified for senior accountant in the classified service of the County of San Diego.

(f) One deputy clerk-staff development specialist or a deputy clerk-staff development coordinator, as the case may be. A deputy clerk-staff development specialist shall receive a biweekly salary at a rate equal to that specified for staff development specialist in the classified service of the County of San Diego. A deputy clerk-staff development coordinator shall receive a biweekly salary at a rate 5 percent higher than that specified for staff development specialist in the classified service of the County of San Diego.

(g) One deputy clerk-volunteer program coordinator. A deputy clerk-volunteer program coordinator shall receive a biweekly salary at a rate equal to the greater of that specified for volunteer program coordinator in the superior court service of the County of San Diego or 15.75 percent higher than that specified for deputy clerk III.

(h) Ten deputy clerks IV. Each of the deputy clerks IV shall receive a biweekly salary at a rate equal to the greater of that specified for superior court clerk in the superior court service of the County of San Diego or 19.95 percent higher than that specified for deputy clerk III.

(i) Sixty-three deputy clerks III, II, or I, or deputy clerk-intermediate clerk typists, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk III in the classified service of the

County of San Diego. Each of the deputy clerks II shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk II in the classified service of the County of San Diego. Each of the deputy clerks I shall receive a biweekly salary at a rate equal to that specified for legal procedures clerk I in the classified service of the County of San Diego. At the discretion of the court administrator, appointments to the deputy clerk I classification may be at any step within the salary range. Up to three of these positions may be filled at the level of deputy clerk-intermediate clerk typist. A deputy clerk-intermediate clerk typist shall receive a biweekly salary at a rate equal to that specified for intermediate clerk typist in the classified service of the County of San Diego.

(j) One deputy clerk-administrative secretary III, II, or I, as the case may be. A deputy clerk-administrative secretary III shall receive a biweekly salary at a rate equal to that specified for administrative secretary III in the classified service of the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at a rate equal to that specified for administrative secretary II in the classified service of the County of San Diego. A deputy clerk-administrative secretary I shall receive a biweekly salary at a rate equal to that specified for administrative secretary I in the classified service of the County of San Diego.

(k) Four deputy clerk-court interpreters who shall receive a biweekly salary at a rate equal to that specified for superior court clerk-interpreter in the superior court service of the County of San Diego.

(*l*) Notwithstanding subdivision (b) of Section 74749, up to 10 deputy clerk-court workers may be appointed by and serve at the pleasure of the court administrator. The class of deputy clerk-court worker provides for temporary appointments to positions in classes not listed in Sections 74740 to 74750, inclusive, pending a review and evaluation of the duties of these positions by the court administrator, and the establishment of specific classes as provided in this section. Prior to the establishment of those classes, the county personnel director shall conduct a classification review and make recommendations to the municipal court as to the establishment of those classes. The rate of pay for each individual employed in this class of deputy clerk-court worker shall be within the range proposed for the class pending establishment, at a rate determined by the court administrator following consultation with the county personnel director. The rules regarding appointment and compensation as they relate to appointments to deputy clerk-court worker shall be the same as those applicable to the class that is pending establishment. Appointments shall be temporary and shall not exceed six months. Employee benefits, if applicable, shall be equal to those granted to the class in the classified service of the County of San Diego to which the pending class shall be tied for benefit purposes. When that appointment is made, the class, compensation (including salary and fringe benefits), and number of those positions may be established

by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. In the event that the class pending establishment is tied to a class in the unclassified service of the County of San Diego, the joint action may designate that persons serving in the class pending establishment shall serve at the pleasure of the court administrator. The court administrator may then appoint additional attachés to the classes of positions in the same manner as those for which express provision is made, and they shall receive the compensation so provided. Persons occupying deputy clerk-court worker positions shall have their appointments expire not later than 30 calendar days following promulgation of a list of certified eligibles for the new class. Appointments to the new class shall continue at the stated compensation or as thereafter modified by joint action of the majority of the judges and the board of supervisors.

(m) Notwithstanding subdivision (b) of Section 74749, up to 10 extra help positions (hourly rate) to be appointed by and serve at the pleasure of the court administrator in the class and salary level deemed appropriate. These appointments shall be temporary for a period not to exceed six months, plus one additional period of up to six months, at the court administrator's option. Notwithstanding any other provisions of this section, the court administrator may fill these positions with personnel employed for a period not to exceed 120 working days or 960 hours, whichever is greater, during a fiscal year on a part-time basis.

(n) Notwithstanding subdivision (c) of Section 74749, the court administrator may appoint up to 15 temporary extra help deputy clerk-municipal court trainees I, II, III, or V, who shall be paid at an hourly rate and shall serve at the pleasure of the court administrator. A deputy clerk-municipal court trainee I shall receive an hourly salary at a rate equal to that specified for student worker I in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee II shall receive an hourly salary at a rate equal to that specified for student worker II in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee III shall receive an hourly salary at a rate equal to that specified for student worker III in the unclassified service of the County of San Diego. A deputy clerk-municipal court trainee V shall receive a biweekly salary at a rate equal to that specified for student worker V in the classified service of the County of San Diego. Persons who graduate and receive a degree in the field which qualified them for appointment to a deputy clerk-municipal court trainee class, may remain in the class and be employed on a full-time basis for up to six months from the first day of the month following their date of graduation.

(o) Except as provided herein, the provisions of Section 74345 shall apply to the attachés appointed pursuant to this section and Section 74744.

(p) Three deputy administrative clerks III, II, or I, as the case may

be. A deputy administrative clerk III shall receive a biweekly salary at a rate equal to that specified for deputy clerk IV. A deputy administrative clerk II shall receive a biweekly salary at a rate equal to that specified for deputy clerk III. A deputy administrative clerk I shall receive a biweekly salary at a rate equal to that specified for deputy clerk II.

(q) One deputy clerk-municipal court secretary, who shall receive a salary at a rate equal to that specified for confidential legal secretary III in the classified service of the County of San Diego. At the discretion of the court administrator appointment to the deputy clerk-municipal court secretary may be at any step within the salary range.

(r) One deputy clerk-senior systems analyst, associate systems analyst, assistant systems analyst, or systems analyst trainee, or systems support analyst II, I, or trainee as the case may be. A deputy clerk-senior systems analyst shall receive a biweekly salary at a rate equal to that specified for senior systems analyst in the classified service of the County of San Diego. A deputy clerk-associate systems analyst shall receive a biweekly salary at a rate equal to that specified for associate systems analyst in the classified service of the County of San Diego. A deputy clerk-assistant systems analyst shall receive a biweekly salary at a rate equal to that specified for assistant systems analyst in the classified service of the County of San Diego. A deputy clerk-systems analyst trainee shall receive a biweekly salary at a rate equal to that specified for systems analyst trainee in the classified service of the County of San Diego. A deputy clerk-systems support analyst II shall receive a biweekly salary at a rate equal to that specified for systems support analyst II in the classified service of the County of San Diego. A deputy clerk-systems support analyst I shall receive a biweekly salary at a rate equal to that specified for systems support analyst I in the classified service of the County of San Diego. A deputy clerk-systems support analyst trainee shall receive a salary equal to that specified for systems support analyst trainee in the classified service of the County of San Diego.

(s) One deputy clerk-municipal court computer specialist I, II, or III, as the case may be. A deputy clerk-municipal court computer specialist I, II, or III shall receive a biweekly salary at a rate equal to that specified for departmental computer specialist I, II, III, respectively, in the classified service of the County of San Diego.

(t) Three deputy clerk-collection officers I, II, or III, as the case may be. A deputy clerk-collection officer I shall receive a biweekly salary at a rate equal to that specified for revenue and recovery officer I in the classified service of the County of San Diego. A deputy clerk-collection officer II shall receive a biweekly salary at a rate equal to that specified for revenue and recovery officer II in the classified service of the County of San Diego. A deputy clerk-collection officer III shall receive a biweekly salary at a rate equal to that specified for revenue and recovery officer III in the classified service of the County of San Diego.

(u) Notwithstanding any other provision of law, the number of positions in classifications authorized under subdivisions (a) to (k), inclusive, (m), and (o) to (t), inclusive, and under Section 74743 may be increased by up to 20 additional positions by joint action of the majority of the judges and the board of supervisors in accordance with established county personnel and budgetary procedures. The rules regarding appointments of persons to those positions shall be the same as those applicable to the class of such positions. The action of the majority of the judges and the resolution of the board of supervisors adjusting those positions shall designate the class title or titles and number of positions to be added to each respective class. Any adjustment made pursuant to this subdivision shall be effective on the adoption of the resolution by the board of supervisors and shall remain in effect only until January 1 of the second year following the year in which the resolution is adopted, unless earlier ratified by the Legislature.

SEC. 83. Section 74745.5 is added to the Government Code, to read:

74745.5. The South Bay Municipal Court or any agency supporting this court may establish a "900" telephone number or numbers for computerized remote access by individuals or organizations to court information. The proceeds from those "900" telephone numbers shall be continuously and solely appropriated to the use of the court or court support agency providing access to the individuals or organizations for purposes of staff and information data processing services.

SEC. 84. Section 74749 of the Government Code is amended to read:

74749. (a) In addition to the salary provided in this article, the attachés of the municipal court shall receive, and they shall be entitled to the same number of holidays, leaves of absence, percentage of retirement offsets and all other fringe benefits as now or may hereafter be provided for the employees of the County of San Diego in the comparable classes specified in Section 74345.

The court administrator shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may be hereafter received by the classification of chief probation officer of the County of San Diego. The deputy court administrators shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may be hereafter received by the classification of assistant chief probation officer of the County of San Diego. All persons employed as deputy clerk-division manager III, deputy clerk-division manager II, or deputy clerk-division manager I, shall receive the same number of holidays, leaves of absence, and all other fringe benefits as are now or may hereafter be received by the class of administrative assistant III in the classified service of the County of San Diego. However, all officers, employees, and attachés of the municipal court shall be eligible to enroll in the dental and vision group insurance plans sponsored by the County of San Diego.

The purpose and intent of this subdivision is to provide all court attachés except the commissioner and court reporters with any and all fringe benefits but no more than those which are available to their comparable classes in the service of the County of San Diego as specified herein or in Section 74345. Whenever action or approval by the chief administrative officer or county personnel director is required for the county benefit, it shall be taken or given, as to comparable municipal court officers and attachés other than those serving at the pleasure of the court, by the court administrator with the approval of the majority of the judges of the municipal court or their designees, or as to those serving at the pleasure of the court, by the majority of the judges or their designees. Changes in benefits shall be effective on the same date as those for employees of the County of San Diego in the specified comparable classes. The majority of all the municipal court judges may adopt rules for the conduct of the personnel privileges to be afforded the attachés of the court excluding fringe benefits.

(b) All attachés other than the commissioner and the court reporters, and other persons serving at the pleasure of their appointing authorities, may be appointed, promoted, removed, suspended, laid off, or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension, lay off, or discharge to civil service provisions applicable to the classified personnel of the County of San Diego. Whenever such attachés are appointed or promoted to a position, they must serve a probationary period of at least six months and not to exceed 18 months, as specified in the job announcement for the class prior to appointment. If the San Diego County Charter is amended to repeal the Civil Service Rules and the board of supervisors adopts new Personnel Rules, the reference to civil service provisions in this subdivision shall mean the personnel rule provisions.

SEC. 86. Section 74843 of the Government Code is amended to read:

74843. The clerk/administrator may appoint the following numbers of staff at the classifications and salary grades indicated:

Number	Classification
1	Accountant/Accountant (entry)
1	Administrative Secretary
1	Assistant Municipal Court Executive Officer
1	Clerical Support Specialist
1	Clerk
6	Courtroom Clerks
3	Court Reporters (Municipal Court)
1	Data Entry Clerk
1	Data Systems Coordinator
1	Electronic Recording Monitor

5	Fiscal Clerk/Clerk Trainee
1	Fiscal Records Supervisor
1	Judicial Secretary
1	Lead Fiscal Clerk
2	Lead Legal Procedures Clerk
22	Legal Procedures Clerk/Trainee
1	Master Calendar Clerk
1	Supervising Courtroom Clerk
3	Supervising Legal Procedures Clerk

SEC. 87. Section 74905 of the Government Code is amended to read:

74905. (a) There shall be one clerk of the Ventura County Municipal Court, who shall be known as the court executive officer and who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The court executive officer shall receive the monthly compensation of six thousand three hundred twenty-four dollars ($6,324) to eight thousand seventy-one dollars ($8,071).

(b) There shall be one assistant courts executive officer and two deputy courts executive officers of the Ventura County Municipal Court who shall be appointed by and serve at the pleasure of the court executive officer. The assistant courts executive officer shall receive the monthly compensation of four thousand nine hundred sixty-four dollars ($4,964) to six thousand two hundred ninety dollars ($6,290). The deputy courts executive officers shall receive the monthly compensation of three thousand nine hundred eleven dollars ($3,911) to four thousand nine hundred forty-nine dollars ($4,949).

(c) The rate of monthly compensation to be paid to the court executive officer, assistant courts executive officer, and the deputy courts executive officers, within the compensation ranges set forth in subdivisions (a) and (b), shall be established by joint action and approval of the board of supervisors and a majority of the judges of the court, at an amount equal to that paid county employees with comparable experience and responsibility.

SEC. 88. Section 74912 of the Government Code is amended to read:

74912. Certain classifications in the Ventura County Municipal Court are deemed to be equivalent in position responsibility and salary level to certain classifications in the service of Ventura County, and whenever the salary of an equivalent classification in the Ventura County service is adjusted by the board of supervisors, the salary of the equivalent classification in the Ventura County Municipal Court and the salary of the personnel in such

classifications, shall be adjusted an equivalent amount. The adjustment shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the Ventura County service. Any salary increases granted or reclassifications made pursuant to this article shall be effective only until the effective date of general legislation enacted by the Legislature at its next regular session following the date the salary increases are granted or reclassifications made. Classifications deemed to be equivalent are as follows:

Municipal Court Classification	County Classification
Manager Court Divisions	Manager Court Divisions
Program Administrator III	Program Administrator III
Administrative Officer II	Administrative Officer II
Administrative Assistant I-NE*	Administrative Assistant I-NE
Administrative Aide	Administrative Aide
Supervising Accountant	Supervising Accountant
Microfilm Technician II	Microfilm Technician II
Office Systems Coordinator I	Office Systems Coordinator I
Financial Evaluation Officer II	Financial Evaluation Officer II
Clerical Supervisor III	Clerical Supervisor III
Collections Officer II	Collections Officer II
Collections Officer III	Collections Officer III
Courier II	Courier II
Court Services Assistant II	Court Services Assistant II
Court Services Assistant III	Court Services Assistant III
Fiscal Assistant II	Fiscal Assistant II
Fiscal Assistant III	Fiscal Assistant III
Fiscal Assistant IV	Fiscal Assistant IV
Fiscal Technician I	Fiscal Technician I
Fiscal Technician II	Fiscal Technician II
Judicial Assistant	Judicial Assistant
Judicial Secretary	Judicial Secretary
Management Assistant III	Management Assistant III
Management Assistant IV-Confidential	Management Assistant IV-Confidential
Senior Accountant	Senior Accountant
Data Entry Operator III	Data Entry Operator III
Office Assistant II	Office Assistant II
Office Assistant III	Office Assistant III

*NE-Nonexempt

SEC. 89. Section 74921.7 of the Government Code is amended to read:

74921.7. There shall be one clerk of the district, to be known as the municipal court administrator, who shall be appointed by and serve at the pleasure of a majority vote of the judges. The municipal court administrator shall receive a biweekly salary range of 240 in the Tulare County Salary Resolution. The municipal court administrator shall receive an additional lump sum, equivalent to 5 percent of his or her then current annual salary, on the first pay period of August, as incentive pay, provided that one million dollars ($1,000,000), or more, has been collected by the collections unit of the municipal courts in the immediately preceding fiscal year. He or she shall be the appointing power for those positions listed in Section 74921.10 as being appointed by the municipal court administrator.

SEC. 90. Section 74921.10 of the Government Code is amended to read:

74921.10. The number of positions within each job classification which may be filled by appointment by the municipal court administrator and the marshal are, as follows:

(a) Appointed by the municipal court administrator:

Number	Title	Range
1	Micro-Computer Network Administrator	207
3	Deputy Clerk/Administrator II	186
5	Deputy Clerk/Administrator I	171
1	Collections Supervisor	167
3	Collector I	157
19	Courtroom Clerk	156
14	Court Clerk II	143
2	Collections Worker II	140
1	Office Assistant III	134
28	Legal Office Assistant II	130
5	Account Clerk	126
2	Office Assistant II	120

(b) Appointed by the marshal, except as provided in Section 74922.5:

Number	Title	Range
1	Chief Marshal's Assistant	220
3	Marshal's Assistant	206
14	Deputy Marshal	175
1	Legal Office Assistant III	140
4	Legal Office Assistant II	130

The marshal shall be management class A-4 and entitled to the benefits in that class as an appointed department head. The chief marshal's assistant and the three marshal's assistants shall be the

equivalent of the current management class B and entitled to the general benefits in that class as management personnel.

(c) The marshal may also appoint as many deputy marshal keepers as may be required by law. The deputy marshal keepers shall be compensated at the fee allowed by law for keeping property.

SEC. 91. Section 74937 of the Government Code is amended to read:

74937. (a) The presiding judge of the North Butte County Municipal Court may appoint the following positions:

(1) One municipal court administrator.

(2) One assistant municipal court administrator or supervising court clerk.

(3) Three supervising court clerks.

(4) Ten court clerks III, II or office assistant III.

(5) Four court clerks II, I, or office assistant II, I.

(6) One accounting specialist or senior account clerk.

(7) One and one-half court reporters.

(b) The presiding judge of the South Butte County Municipal Court may appoint the following positions:

(1) One municipal court administrator.

(2) One assistant municipal court administrator or supervising court clerk.

(3) Two supervising court clerks, or court clerks III, II or office assistants III.

(4) Four court clerks III, II or office assistants III.

(5) Seven court clerks II, I or office assistants II, I.

(6) One accounting specialist or senior account clerk.

(7) One and one-half court reporters.

(8) One office assistant II, I.

SEC. 91.5. Section 74940 of the Government Code is amended to read:

74940. Whenever reference is made to a range number in this section of this article, the schedule of biweekly salaries shall be that as set forth in the Butte County Salary Ordinance.

(a) Municipal court administrator—range 1256.

(b) Assistant municipal court administrator—range 1196.

(c) Supervising court clerk—range 1148.

(d) Court clerk I—range 1088.

(e) Court clerk II—range 1108.

(f) Court clerk III—range 1128.

(g) Office assistant III—range 1077.

(h) Office assistant II—range 1057.

(i) Office assistant I—range 1037.

(j) Accounting specialist—range 1102.

(k) Senior account clerk—range 1082.

(*l*) Account clerk—range 1062.

(m) Court reporter—range 1210.

SEC. 92. Section 74984 of the Government Code is amended to read:

74984. (a) There shall be one marshal who shall be appointed by the superior and municipal courts; provided, that upon the effective date of this section, the incumbent elected marshal shall continue in office as marshal and may be removed by the court only for cause. When that marshal leaves office, the succeeding marshals shall be appointed by and serve at the pleasure of the court.

(b) The marshal shall receive the salary of four thousand twenty-eight dollars ($4,028) per month as set forth in the standard salary resolution of Shasta County in effect for the 1994–95 fiscal year. The marshal shall be provided the same employment benefits by Shasta County as the county provides to other county employees in an equivalent category in the county's merit personnel system.

(c) The board of supervisors may transfer certain duties of the sheriff to the marshal pursuant to Section 26608.3.

(d) All fees collected by the marshal's office shall be deposited with the county treasurer and credited to the general fund.

SEC. 93. Section 74985 of the Government Code is amended to read:

74985. (a) The marshal, with the approval of the court, may appoint the following marshal's office employees whose numbers, classifications, and salary ranges in the standard salary resolution of Shasta County in effect on January 1, 1994, are:

Position Title	Number of Positions	Salary Range	
Marshal	1	Flat	$4,028 per mo.
Deputy Marshal	15	39.3	$2,276–2,766 per mo.
Deputy Marshal (Probationary)		Flat	$2,167 per mo.
Deputy Marshal Trainee		Flat	$2,064 per mo.
Legal Process Clerk II	4	31.3	$1,540–1,872 per mo.
Legal Process Clerk I		29.3	$1,397–1,698 per mo.
Marshal's Civil Supervisor	1	34.3	$1,783–2,167 per mo.
Marshal's Sergeant	2	41.8	$2,571–3,125 per mo.

(b) Each employee of the marshal's office shall be provided the same employment benefits by Shasta County as the county provides to other county employees in equivalent categories and salary ranges in the county's merit personnel system.

SEC. 94. Section 74986 of the Government Code is amended to read:

74986. (a) The municipal and superior courts may appoint a court executive officer who shall be the chief administrative officer and ex officio clerk of the court. The court executive officer shall serve at the pleasure of the court and shall receive a salary of four thousand nine hundred sixty-four dollars ($4,964) per month as set

forth in the standard salary resolution of Shasta County in effect for the 1992–93 fiscal year. The court executive officer shall be provided the same employment benefits by Shasta County as the county provides to other county employees in an equivalent category in the county's merit personnel system.

(b) The judges of the superior and municipal courts shall prescribe and regulate the duties and authority of the court executive officer.

SEC. 95. Section 74987 of the Government Code is amended to read:

74987. (a) The court executive officer, with the approval of the court, may appoint the court's support staff personnel. The following employees of the court shall be compensated within the following applicable ranges established by the standard salary resolution of Shasta County in effect on January 1, 1994:

Position Title	Number of Positions	Salary Range	
Court Executive Officer	1	Flat	$4,964 per mo.
Assistant Court Executive Officer	1	Flat	$3,971 per mo.
Court Commissioner	1	Flat	$71,413 per yr.
Court Services Manager	1		$2,460–2,991 per mo.
Court Services Assistant IV	1		$1,809–2,199 per mo.
Court Services Assistant III	4		$1,723–1,904 per mo.
Court Services Assistant II	13		$1,641–1,995 per mo.
Court Services Assistant I	10		$1,489–1,809 per mo.
Judicial Secretary	1		$1,872–2,275 per mo.
Court Services Assistant/Calendar Coordinator	1		$1,995–2,425 per mo.
Court Services Financial Hearing Officer	1		$1,995–2,425 per mo.
Court Services Accountant/Collection Clerk II	2		$1,723–2,094 per mo.
Court Services Accountant/Collection Clerk I	3		$1,540–1,872 per mo.
Court Services Supervisor	2		$1,947–2,366 per mo.
Court Services Fiscal Officer	1		$2,713–3,297 per mo.

(b) Each employee designated in subdivision (a) shall be provided the same employment benefits by Shasta County as the county provides to other county employees in equivalent categories

and salary ranges in the county's merit personnel system.

SEC. 96. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 996

An act to add Section 77209 to, and to repeal Section 74351.5 of, the Government Code, relating to courts.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 74351.5 of the Government Code is repealed.

SEC. 2. Section 77209 is added to the Government Code, to read:

77209. Any trial court may establish a "900" telephone number or numbers for traffic, misdemeanor, and other telephonic arraignment, for court scheduling, and for rendering tentative civil decisions, provided the court provides an alternative method of obtaining the service or information in a free and timely manner, and informs individuals of this alternative in the message preceding the "900" information. The proceeds from these "900" telephone numbers shall be continuously and solely appropriated to the use of that court for staff, information, and data processing services for the purposes specified in this section.

CHAPTER 997

An act to add and repeal Article 12 (commencing with Section 18831) of, Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Article 12 (commencing with Section 18831) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and

Taxation Code, to read:

Article 12. Designations to the California Olympic Training Fund

18831. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Olympic Training Fund, which is established by Section 18832. That designation is to be used as a voluntary contribution on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation had been made. In the event that no designee is specified, the contribution shall be transferred to the General Fund, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and the administration of funds under this article.

(d) In the event a taxpayer designates a contribution to more than one account or fund listed on the tax return, and the amount available for designation is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return to include a space labeled the "California Olympic Training Fund" to allow for the designation permitted. The forms shall also include in the instructions information that the contribution may be in the amount of one dollar ($1) or more and that the contribution shall be used by the United States Olympic Committee for Olympic activities in California.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

18832. There is in the State Treasury the California Olympic Training Fund to receive contributions made pursuant to Section 18831. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated pursuant to Section 18831 to be transferred to the California Olympic Training Fund. The Controller shall transfer from the Personal Income Tax Fund to the California Olympic Training Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18831 for payment into that fund. It is the intent of the Legislature that the 1993 tax return include a space for the California Olympic Training Fund.

18833. (a) All money transferred to the California Olympic Training Fund, upon appropriation by the Legislature, shall be allocated as follows:

(1) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(2) To the United States Olympic Committee to be used for Olympic activities in California.

(b) Notwithstanding subdivision (a), no money from the California Olympic Training Fund shall be allocated to the United States Olympic Committee unless an annual agreement has been reached between the Controller and the United States Olympic Committee that the committee will match, dollar for dollar, the tax return contributions deposited in the fund, and that the combined proceeds will be used by the United States Olympic Committee for Olympic activities in California.

(c) In the event that the agreement specified in subdivision (b) is not reached, the money transferred to the California Olympic Training Fund pursuant to paragraph (2) of subdivision (a) annually shall be allocated to the General Fund.

18834. (a) This article shall remain in effect only until January 1, 1998, and as of that date is repealed.

(b) If in any calendar year the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars ($250,000), or the adjusted amount specified in subdivision (c), as may be applicable, then this article is repealed with respect to taxable years beginning on and after January 1 of that calendar year. The Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contributions.

(c) For each calendar year, beginning with the 1994 calendar year, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall

continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

CHAPTER 998

An act to amend Section 44265.5 of, and to add Article 3.5 (commencing with Section 56350) to Chapter 4 of Part 30 of, the Education Code, relating to special education.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. The Legislature hereby finds and declares the following:

(a) Functionally blind pupils and some pupils with other severe visual impairments who have the ability to read require instruction in braille if they are to maximize their academic potential and have the greatest chances for success throughout their lives. There are pupils in California who are visually impaired for whom braille is the appropriate reading method but who are not receiving instruction in braille. In the development of the individualized education programs for pupils who are visually impaired, there is a presumption that proficiency in braille reading and writing is essential for the pupils' satisfactory education progress and independent functioning.

(b) The most appropriate reading medium or media for an individual pupil is that which is most efficient in terms of comprehension, speed, and stamina, commensurate with the pupil's ability and grade level. It is not the intention of the Legislature to require the exclusive use of braille if other educational media are appropriate for the pupil's educational needs. It is the intent of the Legislature, however, that all pupils who are visually impaired be given the opportunity to be assessed to determine the appropriate reading medium or media of each pupil.

SEC. 2. Section 44265.5 of the Education Code is amended to read:

44265.5. (a) Pupils who are visually impaired, as defined in Section 56350, shall be taught by teachers whose professional preparation and credential authorization are specific to that disabling condition.

(b) Pupils who are deaf or hard of hearing shall be taught by teachers whose professional preparation and credential authorization are specific to that disabling condition.

(c) Pupils who are orthopedically disabled shall be taught by teachers whose professional preparation and credential authorization are specific to that disabling condition.

SEC. 3. Article 3.5 (commencing with Section 56350) is added to Chapter 4 of Part 30 of the Education Code, to read:

Article 3.5. Individualized Education Program for Visually Impaired Pupils

56350. Unless the context otherwise requires, the definitions set forth in this section shall govern the construction of this article.

(a) A "functionally blind pupil" means a pupil who relies basically on senses other than vision as major channels for learning.

(b) A "pupil with low vision" means a pupil who uses vision as a channel for learning, but who may also benefit from instruction in braille.

(c) A "visually impaired pupil" means a pupil who is functionally blind or a pupil with low vision.

(d) "Braille" means the system of reading and writing through touch commonly known as "Standard English Braille, American Edition."

56351. School districts, special education local plan areas, or county offices of education shall provide opportunities for braille instruction for pupils who, due to a prognosis of visual deterioration, may be expected to have a need for braille as a reading medium.

56352. (a) A functional vision assessment conducted pursuant to Section 56320 shall be used as one criterion in determining the appropriate reading medium or media for the pupil.

(b) An assessment of braille skills shall be required for functionally blind pupils who have the ability to read in accordance with guidelines established pursuant to Section 56136.

(c) Braille instruction shall be provided by a teacher credentialed to teach pupils who are visually impaired.

(d) The determination, by a pupil's individualized education program team, of the most appropriate medium or media, including braille, for visually impaired pupils shall be in accordance with guidelines established pursuant to Section 56136.

(e) Each visually impaired pupil shall be provided with the opportunity to receive an assessment to determine the appropriate reading medium or media, including braille instruction, if appropriate, for that pupil.

SEC. 4. It is the intent of the Legislature in enacting this act not to exceed any requirements mandated by federal law or its implementing regulations.

SEC. 5. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 999

An act to add Article 8.5 (commencing with Section 1150) to Chapter 4 of Part 1 of Division 1 of the Unemployment Insurance Code, relating to unemployment insurance and income tax withholding, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. The Legislature finds and declares that ambiguities and uncertainties in the application of the common law tests for employment status to the product demonstrator industry has historically resulted in lack of uniform enforcement, and unpredictable and inequitable employment tax deficiencies being levied against taxpayers making a good faith effort to comply with the law. The Legislature further finds and declares that the implementation of Section 4304-7 of Title 22 of the California Code of Regulations, on March 17, 1992, has greatly clarified the proper application of existing common law to the product demonstration industry. In order to alleviate the inequitable assessments arising prior to the implementation of the clarifying regulation, and to further encourage prospective treatment of product demonstrators as employees, the Legislature finds and declares that an amnesty for employment taxes, interest, and penalties arising prior to the effective date of the regulation is appropriate. Finally, in order to ensure that the problems of inconsistent treatment of workers and the resultant unfair competitive advantage in the product demonstration industry have been adequately addressed, the Legislature finds and declares that postamnesty enforcement in this area by the Employment Development Department should be increased, and that a report on the results of this increased enforcement activity should be made to the Legislature.

SEC. 2. Article 8.5 (commencing with Section 1150) is added to Chapter 4 of Part 1 of Division 1 of the Unemployment Insurance Code, to read:

Article 8.5. Employment Tax Amnesty

1150. The department shall develop and administer an amnesty program as provided by this article.

1151. (a) The amnesty program shall be conducted for a period of three calendar months beginning April 1, 1995.

(b) Amnesty shall apply only to amounts unpaid on the date an application for amnesty is made pursuant to Section 1153. No refund or credit shall be allowed under this article for amounts paid prior to the date of application for amnesty. Amnesty shall not apply to amounts that may become due subsequent to the amnesty period, even though amnesty may have been allowed for other liabilities in the period for which the amount is due.

1152. (a) For any employer who meets the requirements of Section 1153:

(1) (A) The department shall waive all unpaid penalties, and interest owed on unpaid penalties, imposed on or before December 31, 1993, pursuant to Sections 1112, 1112.5, 1114, 1116, 1126, 1127, 1135, 13051, and 13054 for the tax reporting periods for which amnesty is requested, that are owed as a result of the nonpayment or underpayment of tax liabilities or the failure to file reports.

(B) Penalties imposed by Section 1114 shall not be waived unless complete quarterly reports of wages as required by Section 1088 are filed for periods included in the base period, as defined by Section 1275, on the date of the application for amnesty.

(C) Penalties imposed by Sections 13051 and 13054 shall not be waived for reporting periods in which statements and annual returns required pursuant to Sections 13050 and 13053 were not received by the department.

(2) (A) The department shall waive all penalties imposed or that may be imposed by Sections 1112, 1112.5, 1114, 1116, 13051, and 13054 and interest imposed or that may be imposed by Article 7 (commencing with Section 1110), for the tax reporting periods for which amnesty is requested, that are owed as a result of the nonreporting or underreporting of tax liabilities or the failure to file reports for tax reporting periods ended on or before December 31, 1993. Waiver under this subparagraph shall not apply to liabilities established as a result of an assessment issued by the department prior to the application for amnesty filed pursuant to subdivision (a) of Section 1153.

(B) Penalties imposed by Section 1114 shall not be waived unless complete quarterly reports of wages as required by Section 1088 are filed for periods included in the base period, as defined by Section 1275, on the date of the application for amnesty.

(C) Penalties imposed by Sections 13051 and 13054 shall not be waived for reporting periods in which statements and annual returns required pursuant to Sections 13050 and 13053 were not received by the department.

(3) (A) The department shall waive all penalties that may be

imposed by Sections 1112, 1112.5, 1114, 1126, 1127, 13051, and 13054; interest that may be imposed by Article 7 (commencing with Section 1110) and Section 1129; and taxes that may be due in accordance with Article 3 (commencing with Section 976) for wages paid prior to March 17, 1992, that the employer certifies on the application for amnesty are owed as a result of the misclassification of workers as independent contractors and the reclassification of these workers as "employees." This subparagraph shall apply to those workers who are reclassified as employees as a result of the clarification of common law rules applicable in determining the employer-employee relationship specified in Section 4304-7 of Title 22 of the California Code of Regulations. This subparagraph shall apply to assessments only where the department has issued an assessment for unpaid taxes on or after March 17, 1992, if the entity against which the assessment was issued has reclassified those workers as employees and has paid all contributions, taxes, penalties, and interest for wages paid on or after March 17, 1992, and on the starting date of the amnesty program the workers are determined to be employees pursuant to Section 4304-7 of Title 22 of the California Code of Regulations.

(B) The employer shall file with the application for amnesty a list of workers to whom payment was made for services that were performed in the 15-month period prior to the date of the application for which amnesty is requested. The list shall include each employee's name and social security number. Penalties imposed by Section 1114 shall not be waived unless this list is filed with the application for amnesty.

(C) Penalties imposed by Sections 13051 and 13054 shall not be waived for reporting periods in which statements and annual returns required pursuant to Sections 13050 and 13053 were not received by the department.

(D) The application for amnesty provided by the department shall contain the following certification, which may be signed by the applicant for amnesty:

THE PAYMENTS MADE TO WORKERS WHOSE NAMES AND SOCIAL SECURITY NUMBERS ARE PROVIDED WITH THIS APPLICATION WERE MADE UNDER A GOOD FAITH BELIEF THAT THE WORKERS WERE INDEPENDENT CONTRACTORS. THE UNDERSIGNED STILL BELIEVES THAT THE WORKERS WERE INDEPENDENT CONTRACTORS. HOWEVER, IT IS NOW CLEAR UNDER SECTION 4304-7 OF TITLE 22 OF THE CALIFORNIA CODE OF REGULATIONS THAT THE WORKERS ARE NOW EMPLOYEES.

(4) For purposes of subparagraph (A) of paragraph (3), the department shall abate personal income taxes required to be withheld by Section 13020 and owed by the employer pursuant to Section 13070 if the employer issued an information return pursuant to Section 6041A of the Internal Revenue Code reporting payment or if the payee certifies that the tax has been paid or that he or she

has reported to the Franchise Tax Board the payment against which the tax would have been imposed.

(5) No criminal action shall be brought against the employer, for the tax reporting periods for which amnesty is requested, for the nonreporting or underreporting of tax liabilities except for violations described in Section 2119.

(b) No employer is eligible for amnesty if, for any period prior to the date of application for amnesty, a penalty was charged pursuant to Section 1128 and is final, or if the employer admitted that any part of the amounts for which amnesty relief has been requested were not paid due to fraud or intent to evade the reporting requirements set forth in this division or authorized regulations. If an assessment of penalty charged pursuant to Section 1128 is not final on the date of the application for amnesty, amnesty shall not be allowed unless the penalty is reversed by the California Unemployment Insurance Appeals Board.

(c) This section does not apply to violations of this division or Division 6 (commencing with Section 13000) for which, as of the starting date of the amnesty program, (1) the employer is on notice of a criminal investigation by complaint having been filed against him or her or by written notice having been mailed to him or her that he or she is under criminal investigation, or (2) a court proceeding has already been initiated.

1153. (a) This article applies to any employer who files during the amnesty period an application for amnesty as prescribed by the department and does the following:

(1) (A) Files, with the application for amnesty, contribution returns reporting unreported wages and taxes for the quarter that ended June 30, 1993, and prior quarters, for which amnesty is being applied under paragraph (2) of subdivision (a) of Section 1152.

(B) No waiver of tax, penalties, or interest under subdivision (a) of Section 1152 shall be approved pursuant to this article if the employing unit has outstanding delinquent quarters for which liabilities have not been established as of the date of the application for amnesty.

(2) (A) Pays in full the amount due exclusive of amounts waived pursuant to Section 1152.

(B) The department may enter into an installment payment agreement in lieu of the complete payment required under subparagraph (A). Any installment payment agreement shall include interest on the outstanding amount due, exclusive of amounts waived pursuant to Section 1152, at the rate prescribed in Sections 1111, 1113, and 1129. Interest on amounts due pursuant to the installment payment agreement shall be charged from the day after the end of the period of the amnesty program. Failure by the employer, without good cause, to fully comply with the terms of the installment payment agreement shall render the waiver of tax, interest, and penalties null and void and the total amount of tax, interest, and penalties shall be immediately due and payable.

(b) If subsequent to the amnesty period the department issues a deficiency assessment upon a return filed pursuant to subdivision (a), interest shall be charged from the deficiency assessment date and the department shall have the authority to impose penalties. Criminal action may be brought under this part only with respect to the difference between the amount shown on that return and the correct amount of tax. This action shall not invalidate any waivers granted under Section 1152.

1154. Individuals who have been reported as employees pursuant to paragraph (3) of subdivision (a) of Section 1152 shall receive a refund of disability insurance elective coverage contributions pursuant to Section 708.5. Amounts will be refunded pursuant to Section 1178 after the individual has submitted a written claim for the refund.

1155. The department shall issue forms and instructions and take other actions needed to implement this article.

1156. The department shall adequately publicize the Employment Tax Amnesty Program set forth in this article so as to maximize public awareness of and participation in the program.

1157. A petition for review may be filed pursuant to Section 1222 to review a determination that an employing unit does not qualify for the amnesty provisions of paragraph (3) of subdivision (a) of Section 1152.

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

In order to expeditiously eliminate the competitive imbalance between product demonstration firms based on misclassification of their workers and allow individuals to benefit from the amnesty program established by this act, it is necessary that this act take effect immediately.

CHAPTER 1000

An act to add Section 740.8 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 740.8 is added to the Public Utilities Code, to read:

740.8. As used in Sections 740.3 and 745.5, "interests" of ratepayers, short- or long-term, mean direct benefits that are specific to ratepayers in the form of safer, more reliable, or less costly gas or

electrical service.

CHAPTER 1001

An act to amend Section 37672 of the Education Code, relating to school funding.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 37672 of the Education Code is amended to read:

37672. (a) No pupil participating in programs as described in Section 37670 shall be credited with more than one day of attendance in any calendar day, except as permitted in Section 46140.

Average daily attendance generated in the regular elementary, junior high, and high schools operated under Section 37670 shall be calculated as prescribed in subdivision (a) of Section 41601.

(b) This subdivision shall only apply to school districts with an average daily attendance of 100,001 or more pupils that have installed an individual pupil tracking system and maintain schools on both the traditional calendar and on year-round calendars. For the 1993–94 and 1994–95 fiscal years, if a pupil transfers to another school within the district, other than a transfer initiated by the district, the pupil's average daily attendance shall be calculated independently for each school in which the pupil was enrolled. For the 1993–94 fiscal year as recertified at the time of the first principal apportionment in February of 1995 and for the 1994–95 fiscal year, in no event may any transferring pupil generate more than 0.98 unit of average daily attendance for the district in any one school year under this subdivision. In no event shall this subdivision be construed to authorize any nontransferring pupil to generate more than one unit of average daily attendance for any school year.

CHAPTER 1002

An act to amend Sections 1624, 1630, 41020, 41020.3, 41320.1, 41326, 41328, 42103.3, 42127.3, 42127.6, and 42131 of the Education Code, relating to school districts.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 1624 of the Education Code is amended to read:

1624. (a) If the budget review committee established pursuant to Section 1623 disapproves the budget of the county office of education, within five working days following the receipt of the committee's report, the county superintendent of schools and the county board of education may submit a response to the Superintendent of Public Instruction, including any revisions to the adopted budget and any other proposed action to be taken as a result of the recommendations of the budget review committee.

(b) Based upon the recommendations of the budget review committee provided pursuant to subdivision (c) of Section 1623, and any response provided pursuant to subdivision (a), the Superintendent of Public Instruction shall either approve or disapprove the budget of the county office of education. If the Superintendent of Public Instruction disapproves the budget, the superintendent or his or her designee may do any of the following for the remainder of the current fiscal year:

(1) On or before November 30, develop and adopt, in consultation with the county superintendent of schools and the county board of education, a fiscal plan and budget for the county office of education that will allow the county office of education to meet its financial obligations both in the budget year and with regard to the multiyear financial commitments. The county board of education and the county superintendent of schools shall govern the operation of the county office of education for the budget year in accordance with that fiscal plan and budget. The deadline set forth in this paragraph shall be modified to reflect any extension granted under subdivision (d) of Section 1623.

(2) Cancel purchase orders, prohibit the issuance of nonsalary warrants, and otherwise stay or rescind any action that is inconsistent with the fiscal plan and budget adopted pursuant to paragraph (1). The Superintendent of Public Instruction shall inform the county board of education and the county superintendent of schools in writing of his or her justification for any exercise of authority under this paragraph.

(3) Monitor and review the operation of the county office of education.

(4) Determine the need for additional staff and may employ, at county office of education expense, short-term analytical assistance or expertise to validate financial information if the county does not have the expertise or staff.

(5) Require the county office of education to encumber all contracts and other obligations, to prepare appropriate cash flow analyses and monthly or quarterly budget revisions, and to appropriately record all receivables and payables.

(6) Determine whether there are any financial problem areas and may employ, at county office of education expense, a certified public accounting firm to investigate financial problem areas.

(7) Withhold compensation of the members of the county board of education and the county superintendent for failure to provide requested financial information.

(c) The county office of education shall pay reasonable fees charged by the Superintendent of Public Instruction for actual administrative expenses incurred pursuant to subdivision (b), or costs associated with improving the county office of education's financial management practices.

(d) This section shall not be construed to authorize the Superintendent of Public Instruction to abrogate any provision of a collective bargaining agreement that was entered into by a county office of education prior to the date upon which the Superintendent of Public Instruction disapproved the budget of the county office of education pursuant to subdivision (b).

(e) As he or she deems necessary for the purposes set forth in subdivision (b), the Superintendent of Public Instruction may seek from the county office of education, or otherwise obtain, additional information regarding the budget or operations of the county office of education, through a financial or management review of the county office of education, a cash-flow projection, or other appropriate means.

SEC. 2. Section 1630 of the Education Code is amended to read:

1630. (a) If at any time during the fiscal year the Superintendent of Public Instruction determines that the county office of education may be unable to meet its financial obligations for the current or two subsequent fiscal years or if the county office has a qualified or negative certification pursuant to Section 1240, he or she shall notify the county board of education and the county superintendent in writing of that determination, the basis for the determination, and shall do the following, as necessary, to ensure that the county office meets its financial obligations:

(1) Assign a fiscal expert, paid for by the Superintendent of Public Instruction, to advise the county office on its financial problems.

(2) Conduct a study of the financial and budgetary conditions of the county office. If, in the course of this review, the Superintendent of Public Instruction determines that his or her office requires analytical assistance or expertise that is not available through the county office, he or she may employ, at county office expense, on a

short-term basis, staff, including certified public accountants, to provide the assistance and expertise.

(3) Direct the county office to submit a financial projection of all fund and cash balances of the county office as of June 30 of the current year and subsequent fiscal years as he or she requires.

(4) Require the county office to encumber all contracts and other obligations, to prepare appropriate cash flow analyses and monthly or quarterly budget revisions, and to appropriately record all receivables and payables.

(5) Direct the county office to submit a proposal for addressing the fiscal conditions that resulted in the determination that the county office may not be able to meet its financial obligations.

(6) Withhold compensation of the county board of education and the county superintendent for failure to provide requested financial information.

(b) If, after taking the actions identified in subdivision (a), the Superintendent of Public Instruction determines that a county office will be unable to meet its financial obligations for the current or subsequent fiscal year, he or she shall notify the county board of education and the county superintendent in writing of that determination and the basis for that determination.

(c) If the Superintendent of Public Instruction makes that determination, or if the county office has a negative certification pursuant to Section 1240, the Superintendent of Public Instruction, shall, as necessary to enable the county office to meet its financial obligations, do one or more of the following:

(1) Develop and impose, in consultation with the county office governing board and the county superintendent, revisions to the county office budget that will enable the county to meet its financial obligations.

(2) Stay or rescind any action that is inconsistent with any revision adopted pursuant to paragraph (1). The Superintendent of Public Instruction shall inform the county office governing board in writing of his or her justification for any exercise of authority under this paragraph.

(3) Assist in developing, in consultation with the county office governing board and the county superintendent, a financial plan that will enable the county to meet its future obligations.

(d) This section does not authorize the Superintendent of Public Instruction to abrogate any provision of a collective bargaining agreement that was entered into by a county office prior to the date upon which the Superintendent of Public Instruction assumed authority pursuant to subdivision (c).

(e) The county office shall pay reasonable fees charged by the Superintendent of Public Instruction for any administrative expenses incurred pursuant to subdivision (c) or costs associated with improving the office's financial management practices.

(f) Notwithstanding any other provision of law, a county treasurer shall not honor any warrant when the Superintendent of Public

Instruction, as appropriate, has disapproved that warrant, or has disapproved the order on county office funds for which a warrant was prepared.

(g) For all purposes of errors and liability insurance policies, a fiscal expert appointed pursuant to this section shall be deemed to be an employee of the county office of education. The Superintendent of Public Instruction may require that the fiscal adviser be placed on the county office of education payroll for the purposes of remuneration, benefits, and payroll deductions.

(h) If staff are hired pursuant to paragraph (2) of subdivision (a), the Superintendent of Public Instruction may certify to the Controller an amount to be transferred to the State Department of Education, from the funds that otherwise would be apportioned to the county office of education pursuant to Section 2558, for the purpose of paying all costs incurred by that staff in performing their respective services. The Controller, upon receipt of that certification, shall transfer that amount.

(i) To facilitate the appointment of a county office fiscal officer and the employment of additional staff pursuant to paragraphs (1) and (2), respectively of subdivision (a), for the purposes of those paragraphs, the Superintendent of Public Instruction is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of the Public Contracts Code.

SEC. 3. Section 41020 of the Education Code is amended to read:

41020. (a) It is the intent of the Legislature to encourage sound fiscal management practices among school districts for the most efficient and effective use of public funds for the education of children in California by strengthening fiscal accountability at the district, county, and state levels.

(b) Not later than the first day of May of each fiscal year each county superintendent of schools shall provide for an audit of all funds under his or her jurisdiction and control and the governing board of each school district shall either provide for an audit of the books and accounts of the school district, including an audit of school district income and expenditures by source of funds, or make arrangements with the county superintendent of schools having jurisdiction over the school district to provide for that auditing. In the event the governing board of a school district has not provided for an audit of the books and accounts of the district by April 1, the county superintendent of schools having jurisdiction over the district shall provide for the audit.

(c) Each audit conducted in accordance with this section shall include all funds of the school district including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the school district and funds of regional occupational centers and programs maintained by the county superintendent of schools, a school district, or pursuant to a joint powers agreement. Each audit shall also include an audit of

attendance procedures.

(d) All audit reports for the 1988–89 fiscal year, and for each subsequent fiscal year, shall be developed and reported using a format established by the Controller after consultation with the Superintendent of Public Instruction.

(e) (1) The cost of the audits provided for by the county superintendent of schools shall be paid from the county school service fund and the county superintendent of schools shall transfer the pro rata share of the cost chargeable to each district from district funds.

(2) The cost of the audit provided for by a governing board shall be paid from school district funds. The audit of the funds under the jurisdiction and control of the county superintendent of schools shall be paid from the county school service fund.

(f) The audits shall be made by a certified public accountant or a public accountant, licensed by the State Board of Accountancy.

(g) (1) The auditor's report shall include each of the following:

(A) A statement that the audit was conducted pursuant to standards and procedures developed in accordance with Chapter 3 (commencing with Section 14500) of Part 9 of Division 1 of Title 1.

(B) A summary of audit exceptions and management improvement recommendations.

(2) To the extent possible, a description of correction or plan of correction shall be incorporated in the audit report, describing the specific actions that are planned to be taken, or that have been taken, to correct the problem identified by the auditor. The descriptions of specific actions to be taken or that have been taken shall not solely consist of general comments such as "will implement," "accepted the recommendation," or "will discuss at a later date."

(h) Not later than December 15, a report of each audit for the preceding fiscal year shall be filed with the county superintendent of schools of the county in which the school district is located, the State Department of Education, and the Controller. The Superintendent of Public Instruction shall make any adjustments necessary in future apportionments of all state funds, to correct any audit exceptions revealed by such audit reports.

(i) Commencing with the 1993–94 audit of school districts pursuant to this section, each county superintendent of schools shall be responsible for reviewing the audit exceptions contained in an audit of a school district under his or her jurisdiction related to attendance, inventory of equipment, internal control, and any miscellaneous items, and determining whether the exceptions have been either corrected or an acceptable plan of correction has been developed.

(j) Upon submission of the final audit report to the governing board of each school district and subsequent receipt of the audit by the county superintendent of schools having jurisdiction over the school district, the county office of education shall do all of the following:

(1) Review audit exceptions related to attendance, inventory of equipment, internal control, and other miscellaneous exceptions. Attendance exceptions or issues shall include, but not be limited to, those related to revenue limits, adult education, and independent study.

(2) If a description of the correction or plan of correction has not been provided as part of the audit required by this section, then the county superintendent of schools shall notify the school district and request the governing board of the school district to provide to the county superintendent of schools a description of the corrections or plan of correction by March 15.

(3) Review the description of correction or plan of correction and determine its adequacy. If the description of the correction or plan of correction is not adequate, the county superintendent of schools shall require the school district to resubmit that portion of its response that is inadequate.

(k) Each county superintendent of schools shall certify to the Superintendent of Public Instruction, by May 15, that his or her staff has reviewed all audits of school districts under his or her jurisdiction for the prior fiscal year, that all exceptions that the county superintendent was required to review were reviewed, and that all of those exceptions, except as otherwise noted in the certification, have been corrected by the school district or an acceptable plan of correction has been submitted to the county superintendent of schools. In addition, the county superintendent shall identify by school district, any attendance-related audit exception that had a fiscal impact on state funds, and require the school district to which the attendance-related audit exception was directed to submit the appropriate forms for processing by the Superintendent of Public Instruction.

(*l*) In the audit of a school district for a subsequent year, the auditor shall review the correction or plan or plans of correction submitted by the school district to determine if the exceptions have been resolved. If not, then the auditor shall immediately notify the appropriate county office of education and the State Department of Education and restate the exception in the audit report. After receiving that notification, the State Department of Education shall either consult with the school district to resolve the exception or require the county superintendent of schools to follow up with the school district.

(m) (1) The Superintendent of Public Instruction shall be responsible for assuring that school districts have either corrected or developed a plan of correction for any or all of the following:

(A) All federal and state compliance audit exceptions identified in the audit.

(B) Any exceptions that the county superintendent certifies as of May 15 have not been corrected.

(C) Any repeat audit exceptions that are not assigned to a county superintendent to correct.

(2) In addition, the Superintendent of Public Instruction shall be responsible for assuring that county superintendents of schools and county boards of education that serve as the governing board of a school district either correct all audit exceptions identified in the audits of county superintendents of schools and of the school district for which the county board of education serves as the governing board or develop an acceptable plan of correction for those exceptions.

(n) In order to facilitate the correction of the exceptions identified by the audits issued pursuant to this section, commencing with 1994–95 audits pursuant to this section, the Controller shall require auditors to categorize audit exceptions in the audit report in a manner that will make it clear to both the county superintendent of schools and the Superintendent of Public Instruction which exceptions they are responsible for assuring the correction of by a school district. In addition, the Controller annually shall select a sampling of county superintendents of schools and perform a followup of the audit resolution process of those county superintendents of schools and report the results of that followup to the Superintendent of Public Instruction and the county superintendents of schools that were reviewed.

(o) The county superintendent of schools shall adjust the future local property tax requirements to correct audit exceptions relating to school district tax rates and tax revenues.

(p) If a governing board or county superintendent of schools fails or is unable to make satisfactory arrangements for audit pursuant to this section, the Controller shall make arrangements for the audit and the cost of the audit shall be paid from school district funds or the county school service fund, as the case may be.

(q) Audits of regional occupational centers and programs are subject to the provisions of this section.

(r) Nothing in this section shall be construed to authorize examination into or report on the curriculum used or provided for in any school district.

SEC. 4. Section 41020.3 of the Education Code is amended to read:

41020.3. (a) By January 31 of each year, each school district governing board and county board of education that serves as the governing board of a school district shall review, at a public meeting, the annual audit of the school district for the prior year, any audit exceptions identified in that audit, the recommendations or findings of any management letter issued by the auditor, and any description of correction or plans to correct any exceptions or management letter issue. This review shall be placed on the agenda of the meeting pursuant to Section 35145.

SEC. 5. Section 41320.1 of the Education Code is amended to read:

41320.1. Acceptance by the district of the apportionments made pursuant to Section 41320 shall constitute agreement by the district

to all of the following conditions:

(a) The Superintendent of Public Instruction shall appoint a trustee who has recognized expertise in management and finance and may employ, on a short-term basis, any staff necessary to assist the trustee, including, but not limited to, certified public accountants, as follows:

(1) The expenses incurred by the trustee and any necessary staff shall be borne by the district.

(2) The superintendent shall establish the terms and conditions of the employment, including the remuneration of the trustee. The trustee shall serve at the pleasure of, and report directly to, the superintendent.

(3) The trustee, and any necessary staff, shall serve until the loan called for by this section is repaid, the district has adequate fiscal systems and controls in place, and the superintendent has determined that the district's future compliance with the fiscal plan approved for the district under Section 41320 is probable.

(4) Before the district repays the loan, including interest, the recipient of the loan shall select an auditor from a list established by the superintendent and the Controller to conduct an audit of its fiscal systems. If the fiscal systems are deemed to be inadequate, the superintendent may retain the trustee until the deficiencies are corrected. The cost of this audit and any additional cost of the trustee shall be borne by the district.

(5) Notwithstanding any other provision of law, all reports submitted to the trustee shall be public records.

(6) To facilitate the appointment of the trustee and the employment of any necessary staff, for the purposes of this section, the Superintendent of Public Instruction is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of the Public Contracts Code.

(7) Notwithstanding any other provisions of law, the superintendent may appoint an employee of the State Department of Education to act as trustee for up to the duration of the trusteeship. The salary and benefits of that employee shall be established by the superintendent and paid by the school district. During the time of appointment, the employee shall be deemed an employee of the school district, but shall remain in the same retirement system under the same plan as if the employee had remained in the department. Upon the expiration or termination of the appointment, the employee shall have the right to return to his or her former position, or to a position at substantially the same level as that position, with the department. The time served in the appointment shall be counted for all purposes as if the employee had served that time in his or her former position with the department.

(b) The trustee appointed by the superintendent shall monitor and review the operation of the district. During the period of his or her service, the trustee may stay or rescind any action of the local

district governing board that, in the judgment of the trustee, may affect the financial condition of the district. The Superintendent of Public Instruction may establish timelines and prescribe formats for reports and other materials to be used by the trustee to monitor and review the operations of the district. The trustee shall approve or reject all reports and other materials required from the district as a condition of receiving the apportionment. The superintendent, upon the recommendation of the trustee, may reduce any apportionment to the district in an amount up to two hundred dollars ($200) per day for each late or unacceptable report or other material required under Part 24 (commencing with Section 41000), and shall report to the Legislature any failure of the district to comply with the requirements of this section. If the Superintendent of Public Instruction determines, at any time, that the fiscal plan approved for the district under Section 41320 is unsatisfactory, he or she may modify the plan as necessary, and the district shall comply with the plan as modified.

(c) At the request of the Superintendent of Public Instruction, the Controller shall transfer to the State Department of Education, from any apportionment to which the district would otherwise have been entitled pursuant to Section 42238, the amount necessary to pay the expenses incurred by the trustee and any associated costs incurred by the county superintendent of schools.

(d) For the fiscal year in which the apportionments are disbursed and each year thereafter, the Controller, or his or her designee, shall cause an audit to be conducted of the books and accounts of the district, in lieu of the audit required by Section 41020. At the Controller's discretion, the audit may be conducted by the Controller, his or her designee, or an auditor selected by the district and approved by the Controller. The costs of these audits shall be borne by the district. These audits shall be required until the Controller determines, in consultation with the Superintendent of Public Instruction, that the district is financially solvent, but in no event earlier than one year following the implementation of the plan or later than the time the apportionment made is repaid, including interest. In addition, the Controller shall conduct quality control reviews pursuant to subdivision (c) of Section 14504.2.

(e) For all purposes of errors and omissions liability insurance policies, the trustee appointed pursuant to this section shall be deemed to be an employee of the local education agency to which he or she is assigned. For the purpose of workers' compensation benefits, the trustee shall be deemed an employee of the local education agency to which he or she is assigned, except that a trustee appointed pursuant to paragraph (7) of subdivision (a) shall be deemed an employee of the State Department of Education for that purpose.

(f) Except for an individual appointed by the superintendent as trustee pursuant to paragraph (7) of subdivision (a), the state-appointed trustee shall be a member of the State Teachers'

Retirement System, if qualified, for the period of service as trustee, unless the trustee elects in writing not to become a member. A person who is a member or retirant of the State Teachers' Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment. If the trustee chooses to become a member or is already a member, the trustee shall be placed on the payroll of the school district for the purposes of providing appropriate contributions to the system. The superintendent may also require that any individual appointed as trustee pursuant to paragraph (7) of subdivision (a) be placed on the payroll of the school district for purposes of remuneration, other benefits, and payroll deductions. For the purpose of workers' compensation benefits, the state-appointed trustee is deemed an employee of the local education agency to which he or she is assigned, except that a trustee who is appointed pursuant to paragraph (7) of subdivision (a) is deemed an employee of the State Department of Education for that purpose.

SEC. 6. Section 41326 of the Education Code is amended to read:

41326. (a) Notwithstanding any other provision of this code, the acceptance by a school district of an apportionment made pursuant to Section 41320 that exceeds an amount equal to 200 percent of the amount of the reserve recommended for that district under the standards and criteria adopted pursuant to Section 33127 shall constitute agreement by the district to the conditions set forth in this article. Prior to applying for an emergency apportionment in the amount identified in this subdivision, a school district governing board shall discuss the need for that apportionment at a regular or special meeting of the governing board and, at that meeting, shall receive testimony regarding the apportionment from parents, exclusive representatives of employees of the district, and other members of the community. For purposes of this article, "qualifying school district" means a school district that accepts a loan as described in this subdivision.

(b) The Superintendent of Public Instruction shall assume all the legal rights, duties, and powers of the governing board of a qualifying school district. The Superintendent of Public Instruction, in consultation with the county superintendent of schools, may appoint an administrator to act on his or her behalf in exercising the authority described in this subdivision and may, on a short-term basis employ any staff necessary to assist the administrator, including, but not limited to, a certified public accountant, as follows:

(1) The state-appointed administrator shall serve under the direction and supervision of the Superintendent of Public Instruction until terminated by the Superintendent of Public Instruction at his or her discretion. The superintendent shall consult with the county superintendent of schools before terminating the administrator.

(2) The state-appointed administrator shall have recognized

expertise in management and finance.

(3) To facilitate the appointment of the administrator and the employment of any necessary staff, for the purposes of this section, the Superintendent of Public Instruction is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of the Public Contracts Code.

(4) Notwithstanding any other provisions of law, the superintendent may appoint an employee of the State Department of Education to act as administrator for up to the duration of the administratorship. The salary and benefits of that employee shall be established by the superintendent and paid by the school district. During the time of appointment, the employee shall be deemed an employee of the school district, but shall remain in the same retirement system under the same plan as if the employee had remained in the department. Upon the expiration or termination of the appointment, the employee shall have the right to return to his or her former position, or to a position at substantially the same level as that position, with the department. The time served in the appointment shall be counted for all purposes as if the employee had served that time in his or her former position with the department.

(c) For the period of time during which the Superintendent of Public Instruction exercises the authority described in subdivision (b), the governing board of the qualifying school district shall serve as an advisory body reporting to the state-appointed administrator, in which capacity no member of the governing board shall be paid or entitled to any stipend, benefits, or other compensation.

(d) Notwithstanding Section 35031 or any other provision of law, the employment of any district superintendent of schools, or deputy, associate, or assistant superintendent of schools, or other person employed in an equivalent capacity, whose duties include overseeing, managing, or otherwise directing the fiscal and budgetary operations of the school district, and who is employed by a school district under a contract of employment signed or renewed after the effective date of this article may be terminated by the state-appointed administrator, in accordance with appropriate notice and hearing procedures, if the employee fails to document, to the satisfaction of the state-appointed administrator, that prior to the date of that acceptance he or she either advised the governing board of the district, or his or her superior, that actions contemplated or taken by the governing board could result in the fiscal insolvency of the district, or took other appropriate action to avert that fiscal insolvency.

(e) The authority of the Superintendent of Public Instruction, and the state-appointed administrator, under this section shall continue until all of the following occur:

(1) Two complete fiscal years have elapsed following the district's acceptance of a loan as described in subdivision (a), or, at any time after one complete fiscal year has elapsed following that acceptance,

the state-appointed administrator determines, and so notifies the Superintendent of Public Instruction, that future compliance by the school district with the recovery plans approved pursuant to paragraph (2) is probable.

(2) The Superintendent of Public Instruction has approved all of the recovery plans referred to in subdivision (a) of Section 41327.

(3) The state-appointed administrator certifies that all necessary collective bargaining agreements have been negotiated and ratified, and that the agreements are consistent with the terms of the recovery plans.

(4) The district has completed all reports required by the Superintendent of Public Instruction.

(5) The Superintendent of Public Instruction determines that future compliance by the school district with the recovery plans approved pursuant to paragraph (2) is probable.

(f) When the conditions stated in subdivision (e) have been met, the school district governing board shall regain all of its legal rights, duties, and powers, except for the powers held by the trustee provided for pursuant to Article 2 (commencing with Section 41320). The Superintendent of Public Instruction shall then appoint a trustee under Section 41320.1 to monitor and review the operations of the district until the conditions of subdivision (b) of that section have been met.

(g) Notwithstanding subdivision (f), if the district violates any provision of the recovery plans approved by the Superintendent of Public Instruction pursuant to this article, the superintendent may reassume, either directly or through an administrator appointed in accordance with this section, all of the legal rights, duties, and powers of the governing board of the district. The Superintendent of Public Instruction shall return to the school district governing board all of its legal rights, duties, and powers reassumed under this subdivision when he or she determines that future compliance with the approved recovery plans is probable, or after a period of one year, whichever occurs later.

(h) Article 2 (commencing with Section 41320) shall apply except as otherwise specified in this article.

(i) It is the intent of the Legislature that the legislative budget subcommittees annually conduct a review of each qualifying school district that includes an evaluation of the financial condition of the district, the impact of the recovery plans upon the district's educational program, and the efforts made by the state-appointed administrator to obtain input from the community and the governing board of the district.

SEC. 7. Section 41328 of the Education Code is amended to read:

41328. (a) The school district shall bear 60 percent, and the county office of education of the county in which the district is located shall bear 40 percent, not to exceed three times the amount of funding made available to implement Article 2 (commencing with Section 42120) of Chapter 6, of all costs associated with implementing

the provisions of this article, including, as to a loan as described in subdivision (a) of Section 41326, the provisions of Article 2 (commencing with Section 41320). The Superintendent of Public Instruction shall withhold from the apportionments to be made from the State School Fund to the district and to the county office of education, respectively, the amounts due pursuant to this subdivision. The costs referred to in this subdivision do not include the principal and interest on the emergency apportionment, which shall be paid by the district in accordance with this article.

(b) Notwithstanding subdivision (a), the district receiving the loan shall pay all costs associated with the implementation of this article, if either of the following occurs:

(1) The county office of education, in which the district is located, seeks and is granted a waiver from the State Board of Education based on financial hardship. The waiver may be granted if the state board finds that the payment of the costs required by subdivision (a) will compel the county office of education to seek a loan from the Legislature in order to meet its financial obligations. As part of the waiver request, the county superintendent of schools and the county board of education shall both certify that the financial hardship exists. The waiver is only applicable in the fiscal year in which it is granted.

(2) The county office of education, in which the district is located, seeks and is granted a waiver from the state board based on its implementation and compliance with Sections 42127, 42127.1, 42127.2, 42127.3, 42127.6, and 42131. This waiver shall be applicable until the loan is paid off by the district.

(c) In order to determine whether to grant either of the waivers allowed in subdivision (b), the state board shall receive input and recommendations exclusively from the district, the county office involved, and the county office fiscal crisis and management assistance team established by Section 42127.8. This input shall include, but not be limited to, the reasons the waiver should or should not be granted.

(d) The state-appointed administrator shall be deemed an employee of the qualifying school district for all purposes of errors and omissions liability insurance policies.

(e) Except for an individual appointed as administrator by the superintendent pursuant to paragraph (4) of subdivision (b) of Section 41326, an administrator appointed pursuant to that section shall be a member of the State Teachers' Retirement System, if qualified, for the period of service as administrator, unless the administrator elects in writing not to become a member. A person who is a member or retirant of the State Teachers' Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment. If the administrator chooses to become a member or is already a member, the administrator shall be placed on the payroll of the school district for the purposes of providing appropriate contributions to the

system. The superintendent may also require that any individual appointed as administrator pursuant to Section 41326 be placed on the payroll of the school district for purposes of remuneration, other benefits, and payroll deductions. For the purpose of workers' compensation benefits, the state-appointed administrator shall be deemed an employee of the local education agency to which he or she is assigned, except that an administrator appointed pursuant to paragraph (4) of subdivision (b) of Section 41326 shall be deemed an employee of the State Department of Education for that purpose.

(f) This section shall become operative on July 1, 1993.

SEC. 8. Section 42103.3 of the Education Code is amended to read:

42103.3. In the 1994–95 fiscal year, and thereafter in every third fiscal year, the State Department of Education shall request, from a representative sampling of school districts throughout the state, a copy of the budget information provided to the public by each of those districts regarding school operating costs and revenue projections. Based on that information, the department shall communicate to all school districts any improvements suggested by the department to make the information more useful to school districts and to members of the public.

SEC. 9. Section 42127.3 of the Education Code is amended to read:

42127.3. (a) If the budget review committee established pursuant to Sections 42127.1 and 42127.2 recommends approval of the school district budget, the county superintendent of schools shall accept the recommendation of the budget review committee and approve the budget.

(b) If the budget review committee established pursuant to Sections 42127.1 and 42127.2 disapproves the school district budget, the school district governing board, not later than five working days after receipt of the report described in paragraph (2) of subdivision (b) of Section 42127.2, may submit a response to the Superintendent of Public Instruction, including any revisions to the adopted final budget and any other proposed actions to be taken as a result of the recommendations of the budget review committee. Based upon the recommendations of the budget review committee, and any response to those recommendations provided by the school district governing board, the Superintendent of Public Instruction shall either approve or disapprove the budget. If the Superintendent of Public Instruction disapproves the budget, he or she shall notify the school district governing board in writing of the reasons for that disapproval and, for the remainder of the current fiscal year, the county superintendent of schools shall do the following as necessary:

(1) Not later than November 30, develop and adopt, in consultation with the Superintendent of Public Instruction and the school district governing board, a fiscal plan and budget that will govern the district and will allow the district to meet its financial obligations, both in the current fiscal year and with regard to the

district's multiyear financial commitments. The governing board of the district shall govern the operation of the district for the current fiscal year in accordance with that adopted budget.

(2) Cancel purchase orders, prohibit the issuance of nonsalary warrants, and otherwise stay or rescind any action that is inconsistent with the budget adopted pursuant to paragraph (1). The county superintendent of schools shall inform the school district governing board in writing of his or her justification for any exercise of authority under this paragraph.

(3) Monitor and review the operation of the district.

(4) Determine the need for additional staff and may employ, subject to approval by the Superintendent of Public Instruction, short-term analytical assistance or expertise to validate financial information if the district staff does not have the expertise or staff.

(5) Require the district to encumber all contracts and other obligations, to prepare appropriate cash flow analyses and monthly or quarterly budget revisions, and to appropriately record all receivables and payables.

(6) Determine whether there are any financial problem areas and may employ, subject to approval by the Superintendent of Public Instruction, a certified public accounting firm to investigate financial problem areas.

(7) Withhold compensation of the members of the governing board and the district superintendent for failure to provide requested financial information. A forfeiture may be appealed to the Superintendent of Public Instruction pursuant to subdivision (b) of Section 42127.6.

(c) If, during the selection of the budget review committee or during the committee's review of the budget, an agreement is reached between the governing board of the school district and the county superintendent of schools, and the school district revises its budget to comply with this agreement, the county superintendent of schools shall approve the district budget and the budget review committee selection, or its review of the budget, shall be canceled.

(d) The school district shall pay 75 percent and the county office of education shall pay 25 percent of the actual administrative expenses incurred pursuant to subdivision (b), or costs associated with improving the district's financial management practices. The Superintendent of Public Instruction shall develop, and distribute to affected school districts and county offices of education, advisory guidelines regarding the appropriate amount of any fees charged pursuant to this subdivision.

(e) This section shall not be construed to authorize the county superintendent of schools to abrogate any provision of a collective bargaining agreement that was entered into by a school district prior to the date upon which the county superintendent of schools disapproved the budget of the school district pursuant to subdivision (b).

SEC. 10. Section 42127.6 of the Education Code is amended to

read:

42127.6. (a) If at any time during the fiscal year the county superintendent of schools determines that a school district may be unable to meet its financial obligations for the current or two subsequent fiscal years or if a school district has a qualified or negative certification pursuant to Section 42131, he or she shall notify the school district governing board and the Superintendent of Public Instruction in writing of that determination, the basis for the determination, and shall do any or all of the following, as necessary, to ensure that the district meets it financial obligations:

(1) Assign a fiscal expert, paid for by the county superintendent, to advise the district on its financial problems.

(2) Conduct a study of the financial and budgetary conditions of the district. If, in the course of this review, the county superintendent determines that his or her office requires analytical assistance or expertise that is not available through the district, he or she may employ, on a short-term basis, with the approval of the Superintendent of Public Instruction, staff, including certified public accountants, to provide the assistance and expertise. The school district shall pay 75 percent and the county office of education shall pay 25 percent of these staff costs.

(3) Direct the school district to submit a financial projection of all fund and cash balances of the district as of June 30 of the current year and subsequent fiscal years as he or she requires.

(4) Require the district to encumber all contracts and other obligations, to prepare appropriate cash flow analyses and monthly or quarterly budget revisions, and to appropriately record all receivables and payables.

(5) Direct the district to submit a proposal for addressing the fiscal conditions that resulted in the determination that the district may not be able to meet its financial obligations.

(6) Withhold compensation of the members of the governing board and the district superintendent for failure to provide requested financial information. This action may be appealed to the Superintendent of Public Instruction pursuant to subdivision (b).

Any contract entered into by a county superintendent of schools for the purposes of this subdivision is subject to the approval of the Superintendent of Public Instruction.

(b) Within five days of the county superintendent making the determination specified in subdivision (a), a school district may appeal the basis of the determination, and any of the proposed actions that the county superintendent has indicated that he or she will take to further examine the financial condition of the district. The Superintendent of Public Instruction shall sustain or deny any or all parts of the appeal within 10 days.

(c) If, after taking the actions identified in subdivision (a), the county superintendent determines that a district will be unable to meet its financial obligations for the current or subsequent fiscal year, he or she shall notify the school district governing board and

the Superintendent of Public Instruction in writing of that determination and the basis for that determination.

(d) Within five days of the county superintendent making the determination specified in subdivision (c), a school district may appeal that determination to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall sustain or deny the appeal within 10 days.

(e) If the appeal described in subdivision (d) is denied, not filed, or the district has a negative certification pursuant to Section 42131, the county superintendent, in consultation with the Superintendent of Public Instruction, shall, as necessary to enable the district to meet its financial obligation, do one or more of the following:

(1) Develop and impose, in consultation with the Superintendent of Public Instruction and the school district governing board, revisions to the school district budget that will enable the district to meet its financial obligations.

(2) Stay or rescind any action that is inconsistent with any revision adopted pursuant to paragraph (1). The county superintendent of schools shall inform the school district governing board in writing of his or her justification for any exercise of authority under this paragraph.

(3) Assist in developing, in consultation with the school district governing board, a financial plan that will enable the district to meet its future obligations.

(f) This section does not authorize the county superintendent to abrogate any provision of a collective bargaining agreement that was entered into by a school district prior to the date upon which the county superintendent of schools assumed authority pursuant to subdivision (e).

(g) The school district shall pay 75 percent and the county office of education shall pay 25 percent of the administrative expenses incurred pursuant to subdivision (e) or costs associated with improving the district's financial management practices. The Superintendent of Public Instruction shall develop, and distribute to affected school districts and county offices of education, advisory guidelines regarding the appropriate amount of administrative expenses charged pursuant to this subdivision.

(h) Notwithstanding Section 42647 or 42650, or any other provision of law, a county treasurer shall not honor any warrant when, pursuant to Sections 42127 to 42127.6, inclusive, the county superintendent of schools or the Superintendent of Public Instruction, as appropriate, has disapproved that warrant, or has disapproved the order on school district funds for which a warrant was prepared.

SEC. 11. Section 42131 of the Education Code is amended to read:

42131. (a) (1) Pursuant to the reports required by Section 42130, the governing board of each school district shall certify, in writing, within 45 days after the close of the period being reported, whether or not the school district is able to meet its financial

obligations for the remainder of the fiscal year and, based on current forecasts, for the subsequent fiscal year. These certifications shall be based upon the board's assessment, on the basis of standards and criteria for fiscal stability adopted by the State Board of Education pursuant to Section 33127, of the district budget, as revised to reflect current information regarding the adopted state budget, district property tax revenues pursuant to Sections 95 to 100, inclusive, of the Revenue and Taxation Code, and ending balances for the preceding fiscal year as reported pursuant to Section 42100. The certifications shall be classified as positive, qualified, or negative, as prescribed by the Superintendent of Public Instruction for the purposes of determining subsequent actions by the Superintendent of Public Instruction, the Controller, or the county superintendent of schools, pursuant to subdivisions (b) and (c). These certifications shall be based upon the financial and budgetary reports required by Section 42130 but may include additional financial information known by the governing board to exist at the time of each certification. For purposes of this subdivision, a negative certification shall be assigned to any school district that, based upon current projections, will be unable to meet its financial obligations for the remainder of the fiscal year or the subsequent fiscal year. A qualified certification shall be assigned to any school district that, based upon current projections, may not meet its financial obligations for the current fiscal year or two subsequent fiscal years. A positive certification shall be assigned to any school district that, based upon current projections, will meet its financial obligations for the current fiscal year and subsequent two fiscal years.

(2) A copy of each certification and a copy of the report submitted to the governing board pursuant to Section 42130 shall be filed with the county superintendent of schools. If a county office of education receives a positive certification when it determines a negative or qualified certification should have been filed, the county superintendent of schools shall change the certification to negative or qualified, as appropriate, and, no later than 75 days after the close of the period being reported, shall provide notice of that action to the governing board of the school district and to the Superintendent of Public Instruction. No later than five days after a school district receives notice of a change by the county superintendent of schools in the district's certification to negative or qualified, the governing board of the district may submit an appeal to the Superintendent of Public Instruction regarding the validity of that change, in accordance with the criteria applied to those designations pursuant to this subdivision. No later than 10 days after receiving that appeal, the Superintendent of Public Instruction shall determine the certification to be assigned to the district, and shall notify the school district governing board and the county superintendent of schools of that determination.

Copies of any certification in which the governing board is unable to certify unqualifiedly that these financial obligations will be met

and a copy of the report submitted to the governing board pursuant to Section 42130 shall be sent by the county office of education to the Controller and the Superintendent of Public Instruction at the time of the certification, together with a completed transmittal form provided by the Superintendent of Public Instruction. Within 75 days after the close of the reporting period on all school district certifications that are classified as qualified or negative pursuant to this section, the appropriate county superintendent of schools shall submit to the Superintendent of Public Instruction and the Controller his or her comments on those certifications and report any action proposed or taken pursuant to subdivision (b).

(3) All reports and certifications required under this subdivision shall be in a format or on forms prescribed by the Superintendent of Public Instruction, and shall be based on standards and criteria for fiscal stability adopted by the State Board of Education pursuant to Section 33127.

(4) This subdivision shall not preclude the submission of additional budgetary or financial reports by the county superintendent of schools to the district governing board, or to the Superintendent of Public Instruction.

(b) As to any school district having a negative or qualified certification, the county superintendent of schools shall exercise his or her authority, as necessary, pursuant to Section 42127.6.

(c) Within 75 days after the close of each reporting period, each county superintendent of schools shall report to the Controller and the Superintendent of Public Instruction as to whether the governing board of each of the school districts under his or her jurisdiction has submitted the certification required by subdivision (a). That report shall account for all districts under the jurisdiction of the county office of education and indicate the type of certification filed by each district.

(d) The Controller's office may conduct an audit or review of the fiscal condition of any district having a negative or qualified certification.

(e) The governing board of each school district that files a qualified or negative certification for the second report required for any fiscal year under Section 42130, or for which the second report is classified as qualified or negative by the county superintendent of schools, shall provide to the county superintendent of schools, the Controller, and the Superintendent of Public Instruction no later than June 1, a financial statement that projects the fund and cash balances of the district as of June 30. The governing boards of all other school districts are encouraged to develop a similar financial statement for use in developing the beginning fund balances of the district for the ensuing fiscal year.

(f) Any school district for which the county board of education serves as the governing board is not subject to subdivisions (a) to (f), inclusive, but is governed instead by the interim report, monitoring, and review procedures set forth in subdivision (j) of Section 1240 and

in Article 2 (commencing with Section 1620) of Chapter 5 of Part 2.

CHAPTER 1003

An act to amend Section 84751 of the Education Code, relating to community college districts.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 84751 of the Education Code, as amended by Section 12 of Chapter 153 of the Statutes of 1994, is amended to read:

84751. In calculating each community college district's revenue level for each fiscal year pursuant to subdivision (a) of Section 84750, the chancellor shall subtract, from the total revenues owed, all of the following:

(a) The local property tax revenue specified by law for general operating support, exclusive of bond interest and redemption.

(b) Ninety-eight percent of the fee revenues collected pursuant to Section 76300 and 76330.

(c) Motor vehicle license fees received pursuant to Section 11003.4 of the Revenue and Taxation Code.

(d) Timber yield tax revenue received pursuant to Section 38905 of the Revenue and Taxation Code.

(e) Any amounts received pursuant to Section 33492.15, 33607.5, or 33607.7 of the Health and Safety Code, and Section 33676 of the Health and Safety Code as amended by Section 2 of Chapter 1368 of the Statutes of 1990, that are considered to be from property tax revenues pursuant to those sections for the purposes of community college revenue levels, except those amounts that are allocated exclusively for educational facilities.

CHAPTER 1004

An act to amend Sections 5090.06 and 5090.61 of the Public Resources Code, to amend Sections 8352.6 and 8352.7 of the Revenue and Taxation Code, and to amend Sections 38225 and 38235 of, and to add Section 38225.4 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 5090.06 of the Public Resources Code is amended to read:

5090.06. "Fund" means the Off-Highway Vehicle Trust Fund created by subdivision (b) of Section 38225 of the Vehicle Code.

SEC. 2. Section 5090.61 of the Public Resources Code is amended to read:

5090.61. Money in the fund shall be available, upon appropriation, for allocation by the commission as follows:

(a) An amount, not to exceed 50 percent of the revenues from the special fee required by subdivision (b) of Section 38225 of the Vehicle Code, the revenues transferred from the Motor Vehicle Fuel Account, and revenue received from interest, is available for local assistance grants pursuant to Article 5 (commencing with Section 5090.50). Any portion of this amount not granted to local public agencies shall be available to the division for cooperative agreements with agencies of the United States pursuant to Section 5090.55.

(b) The remainder of the revenues from the special fee required by subdivision (b) of Section 38225 of the Vehicle Code and the remainder of the revenues transferred from the Motor Vehicle Fuel Account, together with all other moneys in the fund, shall be available for the support of the division in implementing the program and for the planning, acquisition, development, construction, maintenance, administration, operation, and conservation of lands in the system. As used in this subdivision, "support of the division" includes functions performed outside the division by others on behalf of the division, including costs incurred on behalf of the division for personnel management and training, accounting and fiscal analysis, records, purchasing, public information activities, consultation of professional scientists and reclamation experts for purposes of Section 5090.35, and legal services. "Support of the division" does not include any costs incurred by, or attributable to, the director or the director's immediate staff or their salaries.

SEC. 3. Section 8352.6 of the Revenue and Taxation Code is amended to read:

8352.6. (a) Subject to Sections 8352 and 8352.1, on the first day of every month, there shall be transferred from money deposited in the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount determined on the basis of the estimate contained in the most recent report prepared pursuant to this section.

(b) The amount transferred pursuant to subdivision (a) represents the portion of receipts in the Motor Vehicle Fuel Account that is attributable to taxes imposed upon distributions of motor

vehicle fuel used in the off-highway operation of vehicles identified by being currently registered as off-highway vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.

(c) On or before August 15, 1973, and every two years thereafter, the Department of Transportation shall prepare, or cause to be prepared, in cooperation with the Department of Parks and Recreation, a report setting forth the current estimate of the amount of money credited to the Motor Vehicle Fuel Account that is attributable to taxes imposed on distributions of motor vehicle fuel used in the off-highway operation of vehicles identified by being currently registered as off-highway vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code for which a refund has not been claimed, and shall submit a copy of the report to the Legislature.

SEC. 4. Section 8352.7 of the Revenue and Taxation Code is amended to read:

8352.7. (a) Subject to Section 8352.1, on the first day of every month, there shall be transferred from money deposited to the credit of the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount determined on the basis of the estimate contained in the most recent report prepared pursuant to this section.

(b) The amount transferred pursuant to subdivision (a) represents the money deposited to the credit of the Motor Vehicle Fuel Account that is attributable to taxes imposed upon distributions of motor vehicle fuel used in motor vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code, while engaged in off-highway recreational use, for which a refund has not been claimed, or for which no person is entitled to a refund. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.

(c) On or before August 15, 1975, and every two years thereafter, the Department of Transportation shall prepare, or cause to be prepared, in cooperation with the Department of Parks and Recreation, a report, a copy of which shall be submitted to the Legislature, setting forth the current estimate of the amount of money credited to the Motor Vehicle Fuel Account that is attributable to taxes imposed on distributions of motor vehicle fuel used in motor vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code, while engaged in off-highway recreational use, and for which a refund has not been claimed, or for which no person is entitled to a refund.

(d) It is the intent of the Legislature that the off-highway recreational use, to be determined by the Department of Transportation pursuant to this section, be that usage by vehicles subject to registration under Division 3 (commencing with Section

4000) of the Vehicle Code, for recreation or the pursuit of recreation on surfaces where the use of vehicles registered under Division 16.5 (commencing with Section 38000) of the Vehicle Code may occur.

SEC. 5. Section 38225 of the Vehicle Code, as amended by Section 6 of Chapter 964 of the Statutes of 1992, is amended to read:

38225. (a) A service fee of nine dollars ($9) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fee specified in subdivision (a), a special fee of six dollars ($6) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device.

(c) All money transferred pursuant to Sections 8352.6 and 8352.7 of the Revenue and Taxation Code, all fees received by the department pursuant to subdivision (b), and all day use, overnight use, or annual or biennial use fees for state vehicular recreation areas received by the Department of Parks and Recreation, shall be deposited in the Off-Highway Vehicle Trust Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, three-wheelers, motorcycles, and snowmobiles. All money shall be deposited in the fund, which is a trust fund, and, upon appropriation by the Legislature, shall be allocated by the Off-Highway Motor Vehicle Recreation Commission, as provided in this section. Money in the fund shall be administered by the commission, as trustee of the fund, and, subject to Section 5090.61 of the Public Resources Code, shall be allocated for those purposes set forth in Sections 38240 and 38240.1.

(d) Any money temporarily transferred by the Legislature from the Off-Highway Vehicle Trust Fund to the General Fund shall be reimbursed, without interest, by the Legislature within two fiscal years of the transfer.

(e) This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date. Any unencumbered funds remaining in the Off-Highway Vehicle Trust Fund on January 1, 1998, shall be transferred to the General Fund.

SEC. 6. Section 38225.4 is added to the Vehicle Code, to read:

38225.4. In addition to the service fees specified in subdivision (a) of Section 38225, as amended by Section 6 of Chapter 964 of the Statutes of 1992, a fee of one dollar ($1) shall be paid at the time of issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division. The department shall deposit the fee received under this section in the Motor Vehicle Account in the State Transportation Fund. The money deposited in the account pursuant to this section shall be available, upon appropriation by the Legislature, for expenditure to offset the costs of maintaining the uniformed field strength of the Department of the California Highway Patrol.

SEC. 7. Section 38235 of the Vehicle Code is amended to read:

38235. All money collected by the department under Section 38230 shall be reported monthly to the State Controller and at the same time be transferred to the Off-Highway Vehicle Trust Fund.

CHAPTER 1005

An act to add Chapter 3 (commencing with Section 15300) to Part 10 of the Education Code, relating to school districts.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Chapter 3 (commencing with Section 15300) is added to Part 10 of the Education Code, to read:

CHAPTER 3. BONDS OF SCHOOL FACILITIES IMPROVEMENT DISTRICTS

Article 1. General Provisions

15300. This chapter provides a method for the formation of school facilities improvement districts consisting of a portion of the territory within a school district and for the issuance of general obligation bonds by a school facilities improvement district.

15301. (a) Any school district that has a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, as set forth in Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, that has as one of its purposes the construction of school facilities within a portion of the territory of the school district, may proceed under this chapter.

(b) The boundaries of any school facilities improvement district formed pursuant to this chapter shall include all of the portion of the territory within the boundaries of the school district that is not located within the boundaries of the community facilities district as described in subdivision (a).

15302. General obligation bonds of the school facilities improvement district may be issued for the following purposes, if the purpose of the bonds is to benefit the land within the school facilities improvement district consistent with any of the following:

(a) To purchase real property upon which to construct school facilities.

(b) To build or purchase school facilities.

(c) To make alterations or additions to the school facilities other than those necessary for ordinary maintenance, operation, or repairs.

(d) To repair, restore, or rebuild any school facilities damaged, injured, or destroyed by fire or other public calamity.

(e) To supply playgrounds with furniture, equipment, or necessary apparatus of a permanent nature.

(f) To permanently improve school grounds.

(g) To refund any valid outstanding indebtedness of the school facilities improvement district that is evidenced by bonds.

(h) To carry out the projects or purposes authorized in Section 39613.

(i) To demolish or raze any school building with the intent to replace it with another school building, whether in the same location or in any other location.

15303. This chapter shall not be operative in any county or counties until the board of supervisors of either the county in which the county superintendent of schools having jurisdiction over the school district in which the school facilities improvement district is located or, if a school facilities improvement district lies in two or more counties, the board of supervisors for those counties, by resolution adopted by a majority vote of the board of supervisors, makes this chapter applicable in the county or counties.

Article 2. Formation of District

15320. Whenever the governing board of a school district meeting the requirements set forth in Section 15301 determines that a school facilities improvement district is necessary, the governing board shall adopt a resolution of intention that states all of the following:

(a) The intention of the governing board to form the proposed school facilities improvement district.

(b) The purpose for which the proposed school facilities improvement district is to be formed, consistent with the requirements set forth in Section 15302.

(c) The estimated cost of the school facilities improvement project.

(d) That any taxes levied for the purpose of financing the general obligation bonds issued to finance the project shall be levied exclusively upon the lands in the proposed school facilities improvement district.

(e) That a map showing the exterior boundaries of the proposed school facilities improvement district is on file with the governing board of the school district and is available for inspection by the public. The boundaries of the school facilities improvement district shall meet the requirements set forth in subdivision (b) of Section 15301.

(f) The time and place for a hearing by the governing board on the formation of the proposed school facilities improvement district.

(h) That any interested persons, including all persons owning lands in the school district or in the proposed school facilities

improvement district, may appear and be heard.

15321. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in each affected county, pursuant to Section 6066 of the Government Code, the first publication shall be at least 14 days prior to the time fixed for the hearing. The notice shall also be given by posting a copy of the resolution in three public places located within the proposed school facilities improvement district for at least 14 days prior to the time fixed for the hearing. No notice other than that required by this section need be given.

15322. The governing board of the school district shall hold the hearing provided for by resolution of intention at the time and place fixed by that resolution. Any interested person, including, but not limited to, all persons owning land in the school district, or in the proposed school facilities improvement district, may appear and be heard concerning any matters set forth in the resolution of intention.

15323. At the hearing, the governing board of the school district may adopt a resolution proposing modifications, consistent with Section 15302, of the purpose stated in the resolution of intention. A resolution proposing modification shall describe the proposed modifications, state the change, if any, in the estimated cost of carrying out the purpose, and shall fix a time and place for hearing by the governing board.

15324. The governing board of the school district shall publish the resolution proposing the modifications to the resolution of intention once in the same newspaper in which the resolution of intention was published at least 14 days prior to the date of hearing on the proposed modifications.

15325. The hearing on any proposed modifications may be held at the same time and place as any continued hearing on the resolution of intention and both hearings may be held and conducted concurrently.

15326. At the conclusion of the hearing on the resolution of intention and of the hearing, if any, upon proposed modifications, the governing board may by resolution order the school facilities improvement district formed for the purpose and with the boundaries described in the resolution of intention, and, if relevant, the resolution proposing modifications. The resolution ordering the school facilities improvement district formed shall state the estimated cost of carrying out the purpose described in the resolution. The resolution shall also number and designate the school facilities improvement district substantially as "School Facilities Improvement District of _____ School District."

15327. The governing board of the school district in which a school facilities improvement district has been formed shall have the same rights, powers, duties and responsibilities with respect to the formation and government of school facilities improvement district as the governing board has with respect to the school district.

Article 3. Financing the Bonds

15330. The total amount of bonds issued shall not exceed 1.25 percent of the taxable property of the school facilities improvement district as shown by the last equalized assessment of the county or counties in which the school facilities improvement district is located. For purposes of this section, the taxable property of a school facilities improvement district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property located within the school facilities improvement district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property located within the school facilities improvement district for the fiscal year by the gross assessed value of all unitary and operating nonunitary property located within the county in which the school facilities improvement district is located for the fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

15331. Notwithstanding any other provision of law, for the purpose of computing the limit on the amount of bonds that may be issued by a school facilities improvement district pursuant to the provisions of this chapter, the taxable property of the school facilities improvement district shall be determined upon the basis that the school facilities improvement district's assessed value has not been reduced by the exemption of the assessed value of business inventories in the school facilities improvement district or reduced by the homeowner's property tax exemption.

15332. Notwithstanding Section 15330, any school facilities improvement district that is located within the boundaries of a unified school district may issue bonds not to exceed 2.5 percent of the taxable property of the school facilities improvement district as shown by the last equalized assessment of the county or counties in which the school facilities improvement district is located.

In computing the outstanding bonded indebtedness of any school facilities improvement district that is located in any unified school district, any outstanding bonds shall be deemed to have been issued for elementary school purposes, high school purposes, respectively, in the respective amounts that the proceeds of the sale of those outstanding bonds, excluding any premium and accrued interest received on that sale, were or have been allocated by the governing board of the unified school district to each of those purposes respectively.

For purposes of this section, the taxable property of a school facilities improvement district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property located within the school facilities improvement district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property

located within the district for the fiscal year by the gross assessed value of all unitary and operating nonunitary property located within the county in which the district is located for the fiscal year, and multiplying the result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

15333. In computing the limitation of indebtedness of any school facilities improvement district, hereinafter in this section referred to as the "bonding district," the outstanding indebtedness of any previously existing district all or any part of which forms a component part of the bonding district and the outstanding indebtedness of any district for which any territory that has become a part of the bonding district is liable shall be excluded and shall not be deemed, for the purposes of computing the limitation of indebtedness under Sections 15330 and 15332, to constitute outstanding indebtedness of the bonding district, except to the extent that the outstanding indebtedness has been expressly assumed by the bonding district by vote of not less than two-thirds of the electors of the bonding district voting at an election at which the proposition of assuming the indebtedness is voted upon. Nothing in this section shall operate to release any property from liability for taxes to pay the principal and interest of indebtedness incurred by any component district or for which any territory that has become a part of the bonding district is liable and in which the taxable property is located at the time of the incurring of the indebtedness. It is the intent of the Legislature to provide in this section a special method of computing the limitation of indebtedness of school facilities improvement districts irrespective of liability of the area embraced within the school districts for the payment of any bonded indebtedness.

15334. For the purpose of determining the limitation of indebtedness of a school facilities improvement district under Section 15330 or 15332, that portion of the bonded indebtedness of the school facilities improvement district for which another district or territory in another district is liable shall be excluded and shall not be deemed to constitute outstanding bonded indebtedness of the school facilities improvement district.

15335. An action to determine the validity of bonds and of the ordering of the improvement or acquisition may be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In the action, all findings, conclusions and determinations of the legislative body that conducted the proceedings shall be conclusive in the absence of actual fraud.

15336. Within 30 days after the end of each fiscal year, the governing board of the school district in which the school facilities improvement district is located shall submit a report containing the following information relating to an election held pursuant to Article 4 (commencing with Section 15340), to the county superintendent

of schools who has jurisdiction over the school district:

(a) The total amount of the bond issue, bonded indebtedness, or other indebtedness involved.

(b) The percentage of qualified electors who are residents of the school facilities improvement district who voted at the election.

(c) The results of the election, with the percentage of votes cast for and against the proposition involved.

Article 4. General Provisions for Bond Elections

15340. (a) After adopting the resolution ordering the formation of the school facilities improvement district, the governing board may provide for and call a special bond election within the school facilities improvement district to, or may at the next statewide election, submit to the voters of the school facilities improvement district a proposition of whether or not an indebtedness of the district shall be incurred and bonds issued therefor in an amount not exceeding the estimate stated in the resolution ordering the school facilities improvement district formed.

(b) The indebtedness and the bonds shall be payable from taxes to be levied and collected upon lands located within the school facilities improvement district.

15341. Notwithstanding any provision of law, no election shall be held pursuant to this chapter within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as the statewide election, subject to the provisions of Part 2.5 (commencing with Section 23300) of Division 14 of the Elections Code.

15342. Any one or more of the purposes enumerated in Section 15302, except that of refunding any outstanding valid indebtedness of the school facilities improvement district evidenced by bonds, may, by order of the governing board of the school district in which the school facilities improvement district is located, be united and voted upon in a single proposition.

15343. The election shall be conducted as provided in Chapter 3 (commencing with Section 5300) of Part 4 except:

(a) As otherwise provided in this chapter.

(b) That the formal notice of the election shall contain and specify, in addition to the items specified in Section 5361:

(1) The purposes for which the bonds are to be issued.

(2) The amount of the bonds.

(3) The maximum rate of interest, not to exceed the maximum rate of interest allowed by Article 5 (commencing with Section 15350).

(4) The maximum number of years, not to exceed 25, not to exceed which the bonds or any series thereof are to run.

(c) No election shall be held under the provisions of this section in any school facilities improvement district for a period of 90 days after an election in the same school facilities improvement district.

15344. Any election called pursuant to this chapter may be consolidated with any other election pursuant to the provisions of Part 2.5 (commencing with Section 23300) of Division 14 of the Elections Code.

15345. Any qualified elector who is a resident of the territory of the school facilities improvement district may vote on the proposition of issuing bonds of the school facilities improvement district.

15346. The words to appear upon the ballots shall be "Bonds—Yes" and "Bonds—No," or words of similar import. Each elector voting at the election shall mark a cross with a rubber stamp after the answer he or she desires to give. A brief statement of the proposition, setting forth the amount of the bonds to be voted upon, the maximum rate of interest, and the purposes for which the proceeds of the sale of the bonds are to be used, shall be printed upon the ballot. No defect in the statement other than in the statement of the amount of the bonds to be authorized shall invalidate the bonds election.

15347. Unless otherwise specified in this chapter, the form and details of all ballots at school facilities improvement elections shall comply with ballot provisions of Part 4 (commencing with Section 2400) of the Government Code.

15348. The proposition shall be deemed approved upon approval by two-thirds of the votes cast by voters voting on the proposition of issuing bonds of the school facilities improvement district.

15349. If it appears from the certificate of election results that two-thirds of the votes cast by the voters voting on the proposition of issuing bonds of the school facilities improvement district are in favor of issuing the bonds, the governing board of the school district in which the school facilities improvement district is located shall cause an entry of that fact to be made upon its minutes. The governing board of that school district shall then certify to the board of supervisors of the county whose superintendent of schools has jurisdiction over the school district, all proceedings had in the premises. The county superintendent of schools shall send a copy of the certificate of election results to the board of supervisors of the county.

15349.1. The proceedings relating to the authorization of bonds of a school facilities improvement district that is located within a joint school district of any type need be certified only to the board of supervisors of the county whose superintendent of schools has jurisdiction over the school district in which the school facilities improvement district exists. The board of supervisors may issue and sell the bonds and no action of the board of supervisors of any other county in which the school board is situated shall be required in connection with the issuance and sale of the bonds, and the bonds need not be signed by any officer of any other county.

15349.2. No error, irregularity, or omission that does not affect the substantial rights of the taxpayers within the school facilities

improvement district or the qualified electors voting at any election at which bonds of any school facilities improvement district are authorized to be issued shall invalidate the election or any bonds authorized by that election.

Article 5. Issuance and Sale of Bonds

15350. Bonds of a school facilities improvement district shall be offered for sale by the board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located as soon as possible, when appropriate, following receipt of a resolution duly adopted by the governing board of that school district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds.

15351. When authorized by the governing board of the school district in which the school facilities improvement district is located, bonds of the school facilities improvement district may be offered for sale as a group by the board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located, at a time determined by the board of supervisors following receipt of a resolution duly adopted by the governing board of that school district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. Bidders shall be required to bid a lump-sum bid on all bonds as a group. If bids satisfactory to the governing board of each school district in which a school facilities improvement district is located are received, the bonds offered for sale shall be awarded to the bidder whose bid will result in the lowest net interest cost for the group or for the bonds of any district included within the group. Bonds shall be issued and sold in the name of each school facilities improvement district in the same manner as provided in this chapter.

15352. The bonds shall be issued in the name of the school facilities improvement district and shall be designated "Bonds of the School Facilities Improvement District of the _____ School District" and each bond and all interest coupons shall state that the tax for the payment thereof shall be limited to annual taxes to be levied upon and collected from the lands within the school facilities improvement district.

15353. The bonds shall be issued in the denomination or denominations as the board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school

district in which the school facilities improvement district is located may prescribe.

15354. The bonds shall not bear a rate of interest greater than 8 percent per annum, payable annually or semiannually.

15355. The number of years the whole or any part of the bonds are to run shall not exceed 25 years, from the date of the bonds or the date of any series thereof.

15356. (a) The board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located shall prescribe the form of the bonds by an order entered upon its minutes. The bonds shall be signed by the chairperson of the board of supervisors, or by any other member thereof as the board of supervisors shall, by resolution adopted by a four-fifths vote of all its members, authorize and designate for that purpose, and also signed by the treasurer of the county, and shall be countersigned by the clerk of the board of supervisors or by a deputy of either of the officers. Unless the board of supervisors otherwise provides, all the signatures and countersignatures may be printed, lithographed, engraved, or otherwise mechanically reproduced except that one of the signatures or countersignatures to the bonds shall be manually affixed. Any signature may be affixed in accordance with the provisions of the Uniform Facsimile Signatures of Public Officials Act, Chapter 6 (commencing with Section 5500) of Title 1 of the Government Code. All expenses incurred for the preparation, sale, and delivery of the school facilities improvement bonds, including but not limited to, fees of an independent financial consultant, the publication of the official notice of sale of the bonds, the preparation, printing, and distribution of the official statement, the obtaining of a rating, the purchase of insurance insuring the prompt payment of interest and principal, the preparation of the certified copy of the transcript for the successful bidder, the printing of the bonds, and legal fees of independent bond counsel retained by the school facilities improvement district issuing the bonds are legal charges against the funds of the school facilities improvement district issuing the bonds and may be paid from the proceeds of sale of the bonds.

(b) Notwithstanding subdivision (a), the board of supervisors may, in its discretion, determine that all of the required signatures and countersignatures shall be by facsimiles, provided, however, that the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the board or its authorized designee.

15357. The board of supervisors shall establish within the country treasury a school facilities improvement fund for each school facilities improvement district the purpose of depositing the proceeds of the bonds issued pursuant to this chapter. The board of supervisors shall also establish within the county treasury a school facilities improvement bond interest and sinking fund for each school facilities improvement district.

15358. The bonds shall be issued by the board of supervisors, payable out of the interest and sinking fund of the school facilities improvement district. The board of supervisors, in its discretion, and without further authorization from the governing board of the school district in which the school facilities improvement district is located, may sell the bonds at a negotiated sale or by competitive bidding. The bonds may be sold at a discount not to exceed 5 percent and at an interest rate not exceeding the maximum permitted by Section 15354. If the sale is by competitive bid, the board of supervisors shall comply with the provisions of Sections 15359 and 15359.1. The bonds shall be sold by the board of supervisors no later than the date designated by the governing board of the school district in which the school facilities improvement district is located as the final date for the sale of the bonds. The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the school facilities improvement fund of the school facilities improvement district. The proceeds deposited shall be drawn out as necessary to finance the purposes approved by the voters pursuant to this chapter. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the county treasury established for the school facilities improvement district.

15359. Before selling the bonds, or any part of them, the board of supervisors as appropriate, shall advertise for bids at least two weeks in some daily or weekly newspaper of general circulation published in the county whose county superintendent of schools has jurisdiction over the governing board of the school district in which the school facilities improvement district is located or if there is no newspaper published in the county, in a newspaper published in some other county in the state having a general circulation in the county.

15359.1. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder or bidders, and the county clerk shall prepare and certify to all of the proceedings on file in his or her office relative to the issuance and sale of the bonds, which transcript of proceedings shall be delivered to the successful bidder or bidders without charge. If no bids are received, or if the board determines that the bids received exceed either the maximum acceptable interest rate prescribed by the governing board or the maximum rate prescribed by Section 15353, or that they are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and without further authorization from the governing board of the school district in which the school facilities improvement district is located, either readvertise or sell the bonds at private sale.

For the purpose of determining whether or not a bid exceeds the maximum acceptable interest rate, the interest rate of that bid shall

be deemed to be the interest rate resulting from the total net interest cost arrived at by computing the total amount of interest that the school facilities improvement district would be required to pay from the date of the bonds to the respective maturity dates thereof at the rate or rates specified in the bid and by deducting therefrom any premium bid.

15359.2. The issuing school facilities improvement district, by action of the governing board of the school district in which the school facilities improvement district is located, may prepare, or have prepared, bond brochures to serve as a prospectus for bond buyers to assist in the satisfactory sale of the bonds, the expense of the brochures shall be payable out of the funds of the district. The brochures may be prepared only after the issuance of the bonds to be sold has been approved by the electors of the school facilities improvement district pursuant to Article 4 (commencing with Section 15340).

The issuing school facilities improvement district by action of the governing board in which the school facilities improvement district is located may expend funds of the school facilities improvement district for the purposes of advertising the availability of the bonds for purchase in any publication or newspaper that in the opinion of that governing board will give notice to prospective bond buyers that the bonds are available for purchase by bond buyers.

Article 6. Required Form of Bonds

15360. Notwithstanding any other provision of law, whenever any bonds are issued pursuant to this chapter, the bonds may be issued either in the form of coupon bonds, or in the form of registered bonds, or some in the form of coupon bonds and some in the form of registered bonds, as may be provided in the proceedings for the issuance of the bonds.

15361. If any officer whose signature, countersignature, or attestation appears on any school facilities improvement bonds or coupons ceases to be an officer before the delivery of the bonds to the purchaser, the signature, countersignature, or attestation either on the bonds or the coupons, or on both, is valid and sufficient for all purposes as if the officer had remained in office until the delivery of the bonds, and the signature upon the coupons of the person who is auditor at the date of the bonds, is valid although the bonds themselves may be attested by a different person who is auditor at the time of delivery of the bonds.

15362. Any bonds executed in the manner provided by the board of supervisors shall be valid, notwithstanding any change in the officers who signed the bonds or the coupons, or in the seal of the board of supervisors, occurring after the execution.

Article 7. Registration of Bonds

15370. Whenever the owner of any coupon bond or of any bond payable to bearer presents the bond to the treasurer or other officer of the county in which the school facilities improvement bonds are issued is located, who by law performs the duties of treasurer, with a request for the conversion of the bond into a registered bond, the treasurer or other officer shall cut off and cancel the coupons of the coupon bond, and shall stamp, print, or write upon the coupon bond or other bond payable to the bearer, either upon its back or upon its face, as may be convenient, a statement to the effect that the bond is registered in the name of the owner and that thereafter the interest and principal of the bond are payable to the registered owner.

15371. After registration, any bond may be transferred by the registered owner in person, or by attorney duly authorized, on presentation of the bond to the treasurer or other officer performing the duties of treasurer. The bond may be again registered as before, a similar statement being stamped, printed, or written thereon.

15372. The statement stamped, printed, or written upon the bond may be substantially in the following form:

(Date, giving month, day, and year.)

This bond is registered pursuant to the statute in the cases made and provided in the name of (insert name of owner) and the interest and principal thereof are hereafter payable to the owner.

_____

Treasurer (or other officer)

15373. After any bond has been registered as provided in this article, the principal and interest of the bond shall be payable to the registered owner.

15374. The treasurer or other officer shall keep in his or her office a book or books that shall at all times show what bonds are registered and in whose name respectively.

Article 8. Cancellation of Unsold Bonds

15380. If any bonds authorized under this chapter have not been offered for sale for one year from the date of the election at which they were authorized or remain unsold for a period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the governing board of the school district in which the school facilities improvement district is located and for which the bonds were authorized, may petition the board of supervisors that has jurisdiction of the issuance and sale of the bonds to cause the unsold bonds to be canceled.

15381. Upon receiving the petition, signed by a majority of the members of the governing board of the school district in which the

school facilities improvement district is located, the board of supervisors shall fix a time for a hearing, which shall not be more than 30 days after receipt of the petition, and shall cause a notice stating the time and place of the hearing, and the object of the petition in general terms, to be published for 10 days prior to the hearing, in a newspaper published in the school facilities improvement district if there is one, and if there is no newspaper published in the school facilities improvement district, in a newspaper published at the county seat of the county.

15382. At the time and place designated in the notice, or at any subsequent time to which the hearing may be postponed, the board of supervisors shall hear any reasons that may be submitted for or against the granting of the petition.

15383. If the board of supervisors deem it for the best interests of the school facilities improvement district named in the petition that the unsold bonds be canceled, it shall make and enter an order in the minutes of its proceedings that the unsold bonds be canceled. Upon the entry of the order the bonds and the vote by which they were authorized to be issued shall cease to be of any validity.

15384. The governing board of a school district in which a school facilities improvement district is located may petition the board of supervisors to cancel the remaining authorization of that district to issue and sell bonds resulting from any particular school bond election after the sale of at least ninety percent (90%) of the bonds authorized at the election if the amount of the remaining authorization is not more than twenty-five thousand dollars ($25,000) and in the opinion of the governing board the sale of the remaining bonds would not be economically justified. The provisions of Sections 15381 and 15382 shall be applicable and at or following the hearing therein provided for, the board of supervisors, if it determines that the public interest will be served thereby, may make and enter an order in the minutes of its proceedings that the remaining authorization be canceled. Upon the entry of the order the vote by which the remaining authorization was created shall cease to be of any validity with respect to such remaining authorization.

Article 9. Purchase of Bonds by Issuing School Districts

15390. The governing board of a school district in which a school facilities improvement district is located may purchase in the open market bonds issued by the school facilities improvement district with available funds from the school facilities improvement fund.

15391. When any bonds issued by a school facilities improvement district have been purchased by the governing board of the school district in which the school facilities improvement district is located, the bonds shall be deemed canceled and of no further validity. The governing board of the school district in which the school facilities improvement district is located shall immediately, after purchasing the bonds, notify the board of supervisors of its action, describing the

bonds purchased. At its first meeting thereafter the board of supervisors shall note the purchase and cancellation of the bonds in the minutes of its proceedings.

Article 10. Method of Bond Payment

15400. The board of supervisors by an order entered upon its minutes shall fix the time when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. If the governing board of the school district in which the school facilities improvement district is located has prescribed in its resolution the time or times when the whole or any part of the bonds shall be payable, the times and amounts shall be fixed by the order of the board of supervisors.

Any bonds may be issued subject to call and redemption before maturity at the option of the governing board of the school district in which the school facilities improvement district exists. The governing board may include in its resolution a requirement that all or any part of the bonds shall be issued subject to call and redemption before maturity and the price or prices at which said bonds shall be redeemed. The board of supervisors, in its order fixing the form of the bonds and the maturities thereof, shall provide that the bonds be redeemable at the option of the governing board and at the price or prices fixed in the resolution. Bonds issued subject to call and redemption prior to maturity shall contain a recital to that effect, and no bond shall be subject to call or redemption prior to maturity unless it contains the recital. The board of supervisors in its order shall fix the method of giving notice of redemption to holders of bonds to be redeemed.

15401. The board of supervisors at the direction of the governing board of the school district in which the school facilities improvement district is located may divide the principal amount of bonds authorized at any election into two or more series and may fix different dates for the bonds of each series, in which event the maximum maturity date of the bonds shall be calculated from the date of each series respectively. When the issuance of bonds shall have been authorized pursuant to two or more propositions submitted at the same or different elections, all or any part of the bonds not theretofore issued may be combined and issued and sold as one or more series.

15402. The board of supervisors may make the principal and interest of the bonds payable at the office of the treasurer of the county, or at any other place within the United States which the board may designate, or at the office of the county treasurer, or at any other designated place at the option of the bondholder. The place of payment shall be specified in the bonds. The expense of paying the bonds elsewhere than at the office of the treasurer shall be a proper charge against the school facilities improvement district to be paid out of the tax levied and collected for the payment of the

bonds.

15403. The principal and interest on the bonds shall be paid by the county treasurer of the county in which the superintendent of schools has jurisdiction of the school district in which the school facilities improvement district is located, at the place required by the terms of the bonds, upon presentation and surrender of warrants drawn by the county auditor in payment thereof, after he or she has canceled the bonds and coupons, or upon the receipt of the registered owner, if the bonds are registered, after a proper warrant has been drawn by the auditor, out of the fund provided for their payment.

15404. Any money remaining in the interest and sinking fund of any school facilities improvement district after the payment of all bonds and coupons payable from the fund, or any money in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the general fund of the governing board of the school district in which the school facilities improvement district is located upon the order of the auditor.

15405. Any money paid into the county treasury of the county and credited to the interest and sinking fund of any school facilities improvement district remaining after the payment of all bonds and coupons payable from the fund, or which is in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the special reserve fund of the school district in which the school facilities improvement district is located and may be used only for the purpose specified in Section 42840.

Article 11. Tax for Payment of Bonds

15410. The board of supervisors of the county in which the superintendent of schools of who has jurisdiction over a school district in which a school facilities improvement district is located shall annually at the time of making the levy of taxes for county purposes levy a tax for that year upon the property in the school facilities improvement district for the interest and redemption of all outstanding bonds of the district. The tax shall not be less than sufficient to pay the interest on the bonds as it becomes due and to provide a sinking fund for the payment of the principal on or before maturity and may include an allowance for an annual reserve, established for the purpose of avoiding fluctuating tax levies. The tax shall be sufficient to provide funds for the payment of the interest on the bonds as it becomes due and also that part of the principal and interest as is to become due before the proceeds of a tax levied at the time for making the next general tax levy can be made available for the payment of the principal and interest.

15411. All taxes levied, when collected, shall be paid into the county treasury of the county whose superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located and on behalf of which the tax was

levied. All collected tax revenues shall be used exclusively for the payment of the principal and interest of the bonds of the school facilities improvement district, including any sinking fund.

15412. The board of supervisors of the county whose superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located, shall annually at the time of making the levy of taxes for county purposes estimate the amount of money required to meet the payment of the principal and interest on bonds of the district authorized by the electors of the district and not sold, and that the governing board of the school district informs the board on their belief will be sold before the next tax levy, and the board of supervisors shall levy a tax sufficient to pay the principal and interest so estimated.

15413. If the bonds are declared invalid or are not issued for any reason, the tax levied and collected shall be retained in the interest and sinking fund of the school facilities improvement district to meet the interest and principal falling due on the bonds. If the school facilities improvement district has no bonds outstanding the proceeds of the tax levy shall be transferred to the general fund of the school district in which the improvement district is located on the order of the auditor.

15414. This article shall apply only to general obligation bonds issued for one or more purposes specified in Section 15302 and approved by two-thirds of the votes cast by the voters voting on the proposition.

Article 12. Tax for Payment of Bonds of School Facilities Improvement District Located in Two or More Counties

15420. If a school facilities improvement district lies in two or more counties, the assessor of each of the counties in which the district lies, shall annually as soon as the county assessments have been equalized by the State Board of Equalization, certify to the board of supervisors of each of the counties in which any portion of the schools facilities improvement district is located, the assessed value of all taxable property in the county located within the school facilities improvement district or community college district. The tax shall be levied according to the ratio which the assessed value of the property in the district in any county bears to the total assessed value of the property in the school facilities improvement district. Each board of supervisors shall levy upon the property of the school facilities improvement district and within its own county the rate of tax that will be sufficient to raise not less than the amount needed to pay the interest and the portion of the principal of the bonds as is to become due during the year.

15421. The tax shall be entered upon the assessment roll and collected in the same manner as other on real property.

The tax when collected shall be paid into the county treasury of the county. The treasurer of any county, other than the one whose

superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located, shall, upon order of the county auditor, pay the sum collected on account of the tax into the treasury of the county whose superintendent of schools has jurisdiction over the school district in which the community facilities district is located.

15422. This article shall apply only to general obligation bonds issued for one or more purposes specified in Section 15302 and approved by two-thirds of the votes cast by voters voting on the proposition.

Article 13. Maximum Tax for Payment of Bonds

15425. Notwithstanding any other provision of this chapter, until the time that the special tax ceases to be levied upon the community facilities district, the rate of taxes levied annually upon the property in the school facilities improvement district pursuant to this chapter shall not exceed the rate of the annual special tax levied upon parcels in the same school district that are part of a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, as set forth in Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code.

CHAPTER 1006

An act to add Section 12302.5 to the Welfare and Institutions Code, relating to in-home supportive services.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 12302.5 is added to the Welfare and Institutions Code, to read:

12302.5. (a) Counties may establish entities or agents to act on behalf of the employers for those recipients who are designated as the employer of the in-home supportive services worker and who elect not to, or who are unable to, ensure compliance with all applicable federal, state, and county wage, hour, and workplace laws.

(b) Any entity or agent established pursuant to this section shall not restrict or interfere with the right of a recipient to select, replace, and terminate the employment of his or her own provider of in-home supportive services and to set his or her own service schedule.

CHAPTER 1007

An act to amend Section 366.26 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 366.26 of the Welfare and Institutions Code is amended to read:

366.26. (a) This section applies to minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989. The procedures specified herein are the exclusive procedures for conducting these hearings; Part 2 (commencing with Section 3020) of Division 8 of the Family Code is not applicable to these proceedings. For minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989, this section and Sections 8604, 8605, 8606, and 8700 of the Family Code and Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 of the Family Code specify the exclusive procedures for permanently terminating parental rights with regard to, or establishing legal guardianship of, the minor while the minor is a dependent child of the juvenile court.

(b) At the hearing, which shall be held in juvenile court for all minors who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these minors, shall review the report as specified in Section 361.5, 366.21, or 366.22, shall indicate that the court has read and considered it, shall receive other evidence that the parties present, and then shall do one of the following:

(1) Permanently sever the rights of the parent or parents and order that the child be placed for adoption.

(2) Without permanently terminating parental rights, identify adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 90 days.

(3) Without permanently terminating parental rights, appoint a legal guardian for the minor and issue letters of guardianship.

(4) Order that the minor be placed in long-term foster care, subject to the regular review of the juvenile court.

In choosing among the above alternatives the court shall proceed pursuant to subdivision (c).

(c) At the hearing the court shall proceed pursuant to one of the following procedures:

(1) The court shall terminate parental rights only if it determines by clear and convincing evidence that it is likely that the minor will

be adopted. If the court so determines, the findings pursuant to subdivision (b) or paragraph 1 of subdivision (e) of Section 361.5 that reunification services shall not be offered, or the findings pursuant to subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the child for six months or that the parent has been convicted of a felony indicating parental unfitness, or pursuant to Section 366.21 or 366.22 that a minor cannot or should not be returned to his or her parent or guardian, shall then constitute a sufficient basis for termination of parental rights unless the court finds that termination would be detrimental to the minor due to one of the following circumstances:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing the relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(D) The minor is living with a relative or foster parent who is unable or unwilling to adopt the minor because of exceptional circumstances, which do not include an unwillingness to accept legal responsibility for the minor, but who is willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her relative or foster parent would be detrimental to the emotional well-being of the minor.

(2) The court shall not terminate parental rights if at each and every hearing at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable services were not offered or provided.

(3) If the court finds that termination of parental rights would not be detrimental to the minor pursuant to paragraph (1) and that the minor has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement goal and without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 90 days. During this 90-day period, the public agency responsible for seeking adoptive parents, for each child shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the child for adoption. During the 90-day period, the public agency shall conduct the search for adoptive parents pursuant to Section 8708 of the Family Code. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1), (3), or (4) of subdivision

(b). For purposes of this section, a minor may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the minor because of the minor's membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the minor is the age of seven years or more.

(4) If the court finds that adoption of the minor or termination of parental rights is not in the interests of the minor, or that one of the conditions in subparagraph (A), (B), (C), or (D) of paragraph (1) or in paragraph (2) applies, the court shall either order that the present caretakers or other appropriate persons shall become legal guardians of the minor or order that the minor remain in long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the minor shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the relative caretaker or foster parents. The court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the minor.

(5) If the court finds that the child should not be placed for adoption, that legal guardianship shall not be established, and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

The licensed foster family agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for the support of the minor shall not, in and of itself, create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(d) The proceeding for the appointment of a guardian for a minor who is a dependent of the juvenile court shall be in the juvenile court. If the court finds pursuant to this section that legal

guardianship is the appropriate permanency plan, it shall appoint the legal guardian and issue letters of guardianship. The assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, and subdivision (b) of Section 366.22 shall be read and considered by the court prior to the appointment, and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding.

(e) At the beginning of any proceeding pursuant to this section, if the minor or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

(1) The court shall consider whether the interests of the minor require the appointment of counsel. If the court finds that the interests of the minor do require this protection, the court shall appoint counsel to represent the minor. If the court finds that the interests of the minor require the representation of counsel, counsel shall be appointed whether or not the minor is able to afford counsel. The minor shall not be present in court unless the minor so requests or the court so orders.

(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the minor, in any proportions the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(f) The court may continue the proceeding for not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(g) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

The testimony of the minor may be taken in chambers and outside the presence of the minor's parent or parents if the minor's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have

the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(h) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the minor person, upon the parent or parents and upon all other persons who have been served with citation by publication or otherwise as provided in this chapter. After making such an order, the court shall have no power to set aside, change, or modify it, but nothing in this section shall be construed to limit the right to appeal the order.

(i) If the court, by order or judgment declares the minor free from the custody and control of both parents, or one parent if the other does not have custody and control, the court shall at the same time order the minor referred to the State Department of Social Services or a licensed adoption agency for adoptive placement by the agency. However, no petition for adoption may be granted until the appellate rights of the natural parents have been exhausted. The State Department of Social Services or licensed adoption agency shall be responsible for the custody and supervision of the minor and shall be entitled to the exclusive care and control of the minor at all times until a petition for adoption is granted. With the consent of the agency, the court may appoint a guardian of the minor, who shall serve until the minor is adopted.

(j) Notwithstanding any other provision of law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the child's emotional well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

(k) (1) An order by the court that a hearing pursuant to this section be held is not appealable at anytime unless all of the following applies:

(A) A petition for extraordinary writ review was filed in a timely manner.

(B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record.

(C) The petition for extraordinary writ review was summarily denied or otherwise not decided on the merits.

(2) Failure to file a petition for extraordinary writ review within the period specified by rule, to substantively address the specific

issues challenged, or to support that challenge by an adequate record shall preclude subsequent review by appeal of the findings and orders made pursuant to this section.

(3) The Judicial Council shall adopt rules of court, effective January 1, 1995, to ensure all of the following:

(A) A trial court, after issuance of an order directing a hearing pursuant to this section be held, shall advise all parties of the requirement of filing a petition for extraordinary writ review as set forth in this subdivision in order to preserve any right to appeal in these issues. This notice shall be made orally to a party if they are present at the time of the making of the order or by first-class mail by the clerk of the court to the last known address of a party not present at the time of the making of the order.

(B) The prompt transmittal of the records from the trial court to the appellate court.

(C) That adequate time requirements for counsel and court personnel exist to implement the objective of this subdivision.

(D) That the parent or guardian, or their trial counsel or other counsel, is charged with the responsibility of filing a petition for extraordinary writ relief pursuant to this subdivision.

(4) The intent of this subdivision is to do both of the following:

(A) Make every reasonable attempt to achieve a substantive and meritorious review by the appellate court within the time specified in Sections 366.21 and 366.22 for holding a hearing pursuant to this section.

(B) Encourage the appellate court to determine all writ petitions filed pursuant to this subdivision on their merits.

(5) This subdivision shall only apply to cases in which an order to set a hearing pursuant to this section is issued on or after January 1, 1995.

SEC. 2. Section 366.26 of the Welfare and Institutions Code is amended to read:

366.26. (a) This section applies to minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989. The procedures specified herein are the exclusive procedures for conducting these hearings; Part 2 (commencing with Section 3020) of Division 8 of the Family Code is not applicable to these proceedings. For minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989, this section and Sections 8604, 8605, 8606, and 8700 of the Family Code and Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 of the Family Code specify the exclusive procedures for permanently terminating parental rights with regard to, or establishing legal guardianship of, the minor while the minor is a dependent child of the juvenile court.

(b) At the hearing, which shall be held in juvenile court for all minors who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these minors, shall review

the report as specified in Section 361.5, 366.21, or 366.22, shall indicate that the court has read and considered it, shall receive other evidence that the parties present, and then shall do one of the following:

(1) Permanently sever the rights of the parent or parents and order that the child be placed for adoption and, upon the filing of a petition for adoption in the juvenile court, order that a hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted.

(2) Without permanently terminating parental rights, identify adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 90 days.

(3) Without permanently terminating parental rights, appoint a legal guardian for the minor and issue letters of guardianship.

(4) Order that the minor be placed in long-term foster care, subject to the regular review of the juvenile court.

In choosing among the above alternatives the court shall proceed pursuant to subdivision (c).

(c) At the hearing the court shall proceed pursuant to one of the following procedures:

(1) The court shall terminate parental rights only if it determines by clear and convincing evidence that it is likely that the minor will be adopted. If the court so determines, the findings pursuant to subdivision (b) or paragraph 1 of subdivision (e) of Section 361.5 that reunification services shall not be offered, or the findings pursuant to subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the child for six months or that the parent has been convicted of a felony indicating parental unfitness, or pursuant to Section 366.21 or 366.22 that a minor cannot or should not be returned to his or her parent or guardian, shall then constitute a sufficient basis for termination of parental rights unless the court finds that termination would be detrimental to the minor due to one of the following circumstances:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing the relationship.

(B) A minor 12 years of age or older objects to termination of parental rights.

(C) The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(D) The minor is living with a relative or foster parent who is unable or unwilling to adopt the minor because of exceptional circumstances, which do not include an unwillingness to accept legal responsibility for the minor, but who is willing and capable of

providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her relative or foster parent would be detrimental to the emotional well-being of the minor.

(2) The court shall not terminate parental rights if at each and every hearing at which the court was required to consider reasonable efforts or services, the court has found that reasonable efforts were not made or that reasonable services were not offered or provided.

(3) If the court finds that termination of parental rights would not be detrimental to the minor pursuant to paragraph (1) and that the minor has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement goal and without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 90 days. During this 90-day period, the public agency responsible for seeking adoptive parents, for each child shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the child for adoption. During the 90-day period, the public agency shall conduct the search for adoptive parents pursuant to Section 8708 of the Family Code. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1), (3), or (4) of subdivision (b). For purposes of this section, a minor may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the minor because of the minor's membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the minor is the age of seven years or more.

(4) If the court finds that adoption of the minor or termination of parental rights is not in the interests of the minor, or that one of the conditions in subparagraph (A), (B), (C), or (D) of paragraph (1) or in paragraph (2) applies, the court shall either order that the present caretakers or other appropriate persons shall become legal guardians of the minor or order that the minor remain in long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the minor shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the relative caretaker or foster parents. The court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the minor.

(5) If the court finds that the child should not be placed for adoption, that legal guardianship shall not be established, and that

there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

The licensed foster family agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for the support of the minor shall not, in and of itself, create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(d) The proceeding for the appointment of a guardian for a minor who is a dependent of the juvenile court shall be in the juvenile court. If the court finds pursuant to this section that legal guardianship is the appropriate permanency plan, it shall appoint the legal guardian and issue letters of guardianship. The assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, and subdivision (b) of Section 366.22 shall be read and considered by the court prior to the appointment, and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding.

(e) The proceeding for the adoption of a minor who is a dependent of the juvenile court shall be in the juvenile court if the court finds pursuant to this section that adoption is the appropriate permanency plan and the petition for adoption is filed in the juvenile court. Upon the filing of a petition for adoption, the juvenile court shall order that an adoption hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted. The assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, and subdivision (b) of Section 366.22 shall be read and considered by the court prior to the adoption and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding. It is the intent of the Legislature, pursuant to this subdivision, to give potential adoptive parents the option of filing in the juvenile court the petition for the adoption of a minor who is a dependent of the juvenile court. Nothing in this section is intended to prevent the filing of such a petition for adoption in any other court as permitted by law, instead

of in the juvenile court.

(f) At the beginning of any proceeding pursuant to this section, if the minor or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

(1) The court shall consider whether the interests of the minor require the appointment of counsel. If the court finds that the interests of the minor do require this protection, the court shall appoint counsel to represent the minor. If the court finds that the interests of the minor require the representation of counsel, counsel shall be appointed whether or not the minor is able to afford counsel. The minor shall not be present in court unless the minor so requests or the court so orders.

(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless this representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the minor, in any proportions the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(g) The court may continue the proceeding for not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(h) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

The testimony of the minor may be taken in chambers and outside the presence of the minor's parent or parents if the minor's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(i) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the minor person, upon the parent or parents and upon all other persons

who have been served with citation by publication or otherwise as provided in this chapter. After making such an order, the court shall have no power to set aside, change, or modify it, but nothing in this section shall be construed to limit the right to appeal the order.

(j) If the court, by order or judgment declares the minor free from the custody and control of both parents, or one parent if the other does not have custody and control, the court shall at the same time order the minor referred to the State Department of Social Services or a licensed adoption agency for adoptive placement by the agency. However, no petition for adoption may be granted until the appellate rights of the natural parents have been exhausted. The State Department of Social Services or licensed adoption agency shall be responsible for the custody and supervision of the minor and shall be entitled to the exclusive care and control of the minor at all times until a petition for adoption is granted. With the consent of the agency, the court may appoint a guardian of the minor, who shall serve until the minor is adopted.

(k) Notwithstanding any other provision of law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the child's emotional well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

(l) (1) An order by the court that a hearing pursuant to this section be held is not appealable at anytime unless all of the following applies:

(A) A petition for extraordinary writ review was filed in a timely manner.

(B) The petition substantively addressed the specific issues to be challenged and supported that challenge by an adequate record.

(C) The petition for extraordinary writ review was summarily denied or otherwise not decided on the merits.

(2) Failure to file a petition for extraordinary writ review within the period specified by rule, to substantively address the specific issues challenged, or to support that challenge by an adequate record shall preclude subsequent review by appeal of the findings and orders made pursuant to this section.

(3) The Judicial Council shall adopt rules of court, effective January 1, 1995, to ensure all of the following:

(A) A trial court, after issuance of an order directing a hearing pursuant to this section be held, shall advise all parties of the

requirement of filing a petition for extraordinary writ review as set forth in this subdivision in order to preserve any right to appeal in these issues. This notice shall be made orally to a party if they are present at the time of the making of the order or by first-class mail by the clerk of the court to the last known address of a party not present at the time of the making of the order.

(B) The prompt transmittal of the records from the trial court to the appellate court.

(C) That adequate time requirements for counsel and court personnel exist to implement the objective of this subdivision.

(D) That the parent or guardian, or their trial counsel or other counsel, is charged with the responsibility of filing a petition for extraordinary writ relief pursuant to this subdivision.

(4) The intent of this subdivision is to do both of the following:

(A) Make every reasonable attempt to achieve a substantive and meritorious review by the appellate court within the time specified in Sections 366.21 and 366.22 for holding a hearing pursuant to this section.

(B) Encourage the appellate court to determine all writ petitions filed pursuant to this subdivision on their merits.

(5) This subdivision shall only apply to cases in which an order to set a hearing pursuant to this section is issued on or after January 1, 1995.

SEC. 3. Section 2 of this bill incorporates amendments to Section 366.26 of the Welfare and Institutions Code proposed by both this bill and AB 2982. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) each bill amends Section 366.26 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2982, in which case Section 1 of this bill shall not become operative.

CHAPTER 1008

An act to add Article 8 (commencing with Section 1879) to Chapter 12 of Part 2 of Division 1 of the Insurance Code, to add Section 43705 to the Health and Safety Code, to amend Section 550 of the Penal Code, to amend Section 10902 of the Revenue and Taxation Code, and to amend Sections 220, 543, 544, 5505, 6050, 11515.1, 11519, 11520, 11540, and 24007 of, and to add Sections 431, 432, 6161, 9255.2, and 11515.2 to, the Vehicle Code, relating to crimes.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Article 8 (commencing with Section 1879) is added to Chapter 12 of Part 2 of Division 1 of the Insurance Code, to read:

Article 8. Insurance Fraud Prevention

1879. The purpose of this article is to confront aggressively the problem of insurance fraud in this state by facilitating the detection of insurance fraud, eliminating the occurrence of fraud through the development of fraud prevention programs, requiring the restitution of fraudulently obtained insurance benefits, and reducing the amount of premium dollars used to pay fraudulent claims.

1879.1. (a) If a person is found by a court of competent jurisdiction, pursuant to a claim initiated by the commissioner, a district attorney, or the Attorney General, to have violated Section 1871.4 or any provision of Section 548, 549, 550, or 551 of the Penal Code, the person shall be subject to a maximum civil penalty of two hundred fifty thousand dollars ($250,000) per violation, unless the amount of illegal proceeds exceeds two hundred fifty thousand dollars ($250,000), in which event the fine may not exceed the amount of illegal proceeds. The burden of proof in the proceeding shall be upon the plaintiff, and shall require proof by a preponderance of the evidence. The amount of the civil penalty shall approximate the illegal profits realized as a result of the fraudulent activity and shall not be punitive. In addition to the equitable relief of disgorgement of illegal proceeds, the court shall have the power to grant other equitable relief, including temporary injunctive relief, that is necessary to prevent the transfer, concealment, or dissipation of illegal proceeds, or to protect the public. Nothing in this subdivision shall be construed to prohibit the prosecuting agency and the person alleged to be guilty of a violation of this article from entering into a written agreement in which the person does not admit or deny the charges but consents to payment of the civil penalty. A consent agreement may not be used in a subsequent civil or criminal proceeding relating to any violation, but notification thereof may be made to any licensing authority. The civil penalties assessed pursuant to this section are mandatory and may not be waived at the discretion of the court.

(b) In any action brought pursuant to this section, the investigation of the alleged fraud may be conducted by the commissioner, a district attorney, local law enforcement agency, or the Department of Justice. If it is determined that a prosecution for a violation of this article is warranted, the district attorney of the appropriate county has the initial authority to bring all actions under this section. If the district attorney elects not to pursue the action civilly or criminally and states in writing that the election not to pursue is due to insufficient resources, the Department of Justice or the department may initiate prosecution pursuant to this section. In all cases where the district attorney has elected not to prosecute, he or she shall state in writing whether he or she elects to participate in a prosecution conducted by one of the other authorized agencies.

(c) All fines collected pursuant to this section shall be distributed

in the following manner:

(1) First to the prosecuting and investigating agencies for reimbursement of costs for the investigation and prosecution of the case.

(2) Second to the victims for restitution.

(3) Third to be divided equally among each of the following agencies: the prosecuting agency or a local prosecuting agency participating pursuant to subdivision (b) in a given prosecution; the Department of Insurance; the Department of Justice; and the local district attorney's office.

(d) All revenues from fines and civil penalties imposed pursuant to this section and remitted to the state shall be deposited in the General Fund and, when appropriated by the Legislature, shall be apportioned as provided in subdivision (c) and shall be used for enhanced fraud investigation and prevention efforts.

(e) Revenues received by prosecuting agencies from civil penalties imposed pursuant to this section shall be in addition to and augment existing appropriations to those agencies and shall not be used as a substitute for existing appropriations.

(f) The remedies authorized in this section shall be cumulative and shall not be construed to preclude the applicability of any other equitable or criminal remedy that may apply to the same or related conduct. If at any time both a civil action for penalties and equitable relief and a criminal action are pending against a defendant for substantially the same conduct, the civil action shall be stayed until the criminal matter has been concluded at the trial court level. The stay shall not preclude the court from granting or enforcing temporary equitable relief during the pendency of the actions. Any restitution paid to a victim pursuant to subdivision (c) shall be a credit against compensation obtained by the victim against the defendant for the same or related conduct.

1879.2. (a) Insurance claim forms shall contain a statement in a form approved by the commissioner that contains the following statement: "Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties."

(b) Insurance application forms for motor vehicle policies shall contain a statement in a form approved by the commissioner that contains the following statement: "Any person who knowingly makes an application for motor vehicle insurance coverage containing any statement that the applicant resides or is domiciled in this state when, in fact, that applicant resides or is domiciled in a state other than this state, is subject to criminal and civil penalties."

1879.3. The commissioner shall appoint full-time attorneys and supervisory and investigatory personnel within the bureau. Those persons shall be qualified by training and experience to perform the duties of their position.

When so requested by the commissioner, the Attorney General may assign one or more deputy attorneys general to assist the

commissioner in the performance of these duties.

1879.4. (a) The Chief of the Bureau of Fraudulent Claims and those investigators designated by him or her may expend funds to conduct undercover activities, employ civilian operatives, or in any other manner not prohibited by law to investigate insurance fraud or workers' compensation fraud.

(b) The money expended pursuant to subdivision (a) shall be paid out of the funds appropriated or made available by law for the support or use of the department.

1879.5. (a) Any person who believes that a violation of this article has been or is being made may notify the department immediately after discovery of the alleged violation and may send to the department, on a form and in a manner prescribed by the commissioner, the information requested and any additional information relative to the alleged violation as the department may request. The division shall review the reports and select those alleged violations as may require further investigation. It shall then cause an independent examination or evaluation of the facts surrounding the alleged violation to be made to determine the extent, if any, to which fraud, deceit, or intentional misrepresentation of any kind exists.

(b) No person shall be subject to civil liability for libel, violation of privacy, or otherwise by virtue of the filing of reports or furnishing of other information, in good faith and without malice, provided pursuant to this section or requested by the department as a result of the authority conferred upon it by law.

(c) The commissioner may, by regulation, require admitted insurers to keep any records and other information as he or she deems necessary for the effective enforcement of this article.

1879.6. The commissioner may adopt administrative regulations as he or she deems necessary for the effective implementation of this article.

1879.7. The commissioner shall report annually to the Legislature as to the activities of the department and the cost-effectiveness of the programs established pursuant to this article.

1879.8. Nothing in this article shall be construed to preclude the applicability of any other provision of civil or criminal law that applies to any act committed or alleged to have been committed by any person.

SEC. 2. Section 43705 is added to the Health and Safety Code, to read:

43705. (a) The Legislature hereby declares its intent to implement a five-year pilot statewide smog index system for light duty vehicles and to conduct a five-year pilot study in the San Diego County Air Pollution Control District and the Ventura County Air Pollution Control District for testing a pollution-miles-per-vehicle proposal to reduce air pollution by identifying high-pollution, high-mileage vehicles and requiring annual smog checks for those vehicles.

(b) (1) The state board shall petition the Federal Trade Commission, pursuant to Part 455 of Title 16 of the Code of Federal Regulations, for a limited exemption from the Federal Trade Commission's Buyer's Guide, to allow this state to incorporate into the Buyer's Guide utilized by motor vehicle dealers in this state, a smog index chart pursuant to subdivision (b) of Section 44254.

(2) Ninety days following approval by the Federal Trade Commission of a petition pursuant to paragraph (1), it shall be unlawful for any motor vehicle dealer licensed by the Department of Motor Vehicles to display or offer for sale any used vehicle unless there is affixed to the vehicle the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations which includes a smog index chart pursuant to subdivision (b) of Section 44254. Ninety days following the final disapproval by the Federal Trade Commission of a petition pursuant to paragraph (1), it shall be unlawful for any motor vehicle dealer licensed by the Department of Motor Vehicles to display or offer for sale any used vehicle unless there is attached, by a perforated attachment, to the Federal Trade Commission's Buyer's Guide as required by Part 455 of Title 16 of the Code of Federal Regulations, a smog index chart pursuant to subdivision (b) of Section 44254.

(c) Subdivision (b) does not apply to any of the following:

(1) A vehicle sold by a dismantler after the vehicle has been reported for dismantling pursuant to Section 11520 of the Vehicle Code.

(2) A vehicle sold by a salvage pool after a salvage certificate has been obtained for the vehicle pursuant to Section 11515 of the Vehicle Code.

(3) A vehicle sold by a salvage pool or a dismantler after a nonrepairable vehicle certificate has been obtained for the vehicle pursuant to Section 11515.2 of the Vehicle Code.

(4) A vehicle sold by a dealer to another dealer.

(5) A vehicle sold for the purpose of being legally wrecked or dismantled.

SEC. 3. Section 550 of the Penal Code is amended to read:

550. (a) It is unlawful to do any of the following:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss or injury, including payment of a loss under a contract of insurance.

(2) Knowingly present multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(4) Knowingly present a false or fraudulent claim for the payments of a loss for theft, destruction, damage, or conversion of a motor vehicle, a motor vehicle part, or contents of a motor vehicle.

(5) Knowingly prepare, make, or subscribe any writing, with the

intent to present or use it, or to allow it to be presented in support of any false or fraudulent claim.

(6) Knowingly assist, abet, solicit, or conspire with any person described as follows:

(A) Any person who knowingly presents any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(B) Any person who knowingly presents multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(C) Any person who knowingly causes or participates in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(D) Any person who knowingly prepares, makes, or subscribes any writing, with the intent to present or use it, or to allow it to be presented in support on any false or fraudulent claim.

(7) Knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit.

(8) Knowingly submit a claim for a health care benefit which was not used by, or on behalf of, the claimant.

(9) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud.

(10) Knowingly present for payment any undercharges for health care benefits on behalf of a specific claimant unless any known overcharges for health care benefits for that claimant are presented for reconciliation at that same time.

(11) For purposes of paragraphs (7) to (10), inclusive, a claim or a claim for payment of a health care benefit also means a claim or claim for payment submitted by or on the behalf of a provider of any workers' compensation health benefits under the Labor Code.

(b) It is unlawful to do, or to knowingly assist or conspire with any person to do, any of the following:

(1) Present or cause to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.

(2) Prepare or make any written or oral statement that is intended to be presented to any insurer or any insurance claimant in connection with, or in support of or opposition to, any claim or payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.

(3) Conceal or knowingly fail to disclose the occurrence of an event that affects any person's initial or continued right or entitlement to any insurance benefit or payment, or the amount of any benefit or payment to which the person is entitled.

(4) Prepare or make any written or oral statement, intended to be presented to any insurer or producer for the purpose of obtaining a

motor vehicle insurance policy, that the person to be the insured resides or is domiciled in this state when, in fact, that person resides or is domiciled in a state other than this state.

(c) (1) Every person who violates paragraph (1), (2), (3), (4), (5), or (6) of subdivision (a) is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years, and by a fine not exceeding fifty thousand dollars ($50,000), unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud.

(2) Every person who violates paragraph (7), (8), (9), or (10) of subdivision (a) is guilty of a public offense.

(A) Where the claim or amount at issue exceeds four hundred dollars ($400), the offense is punishable by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine, unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(B) Where the claim or amount at issue is four hundred dollars ($400) or less, the offense is punishable by imprisonment in a county jail not to exceed six months, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine unless the aggregate amount of the claims or amount at issue exceeds four hundred dollars ($400) in any 12 consecutive month period, in which case the claims or amounts may be charged as in subparagraph (A).

(3) Every person who violates paragraph (1), (2), (3), or (4) of subdivision (b) shall be punished by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud, by both that imprisonment and fine, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(d) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who previously has been convicted of felony violations of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except where the existence of the fact was not admitted or found

to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision shall not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) of, or Division 6 (commencing with Section 6000) of, the Welfare and Institutions Code.

(e) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision or in Section 548 shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision (b). The existence of any fact which would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury. Any person who violates this section shall be subject to appropriate orders of restitution pursuant to Section 13967 of the Government Code.

(f) This section shall not be construed to preclude the applicability of any other provision of equitable remedy or criminal law that applies or may apply to any act committed or alleged to have been committed by a person.

SEC. 3.1. Section 550 of the Penal Code is amended to read:

550. (a) It is unlawful to do any of the following:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(2) Knowingly present multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(4) Knowingly present a false or fraudulent claim for the payments of a loss for theft, destruction, damage, or conversion of a motor vehicle, a motor vehicle part, or contents of a motor vehicle.

(5) Knowingly prepare, make, or subscribe any writing, with the intent to present or use it, or to allow it to be presented in support of any false or fraudulent claim.

(6) Knowingly assist, abet, solicit, or conspire with any person described as follows:

(A) Any person who knowingly presents any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(B) Any person who knowingly presents multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(C) Any person who knowingly causes or participates in a

vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(D) Any person who knowingly prepares, makes, or subscribes any writing, with the intent to present or use it, or to allow it to be presented in support on any false or fraudulent claim.

(7) Knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit.

(8) Knowingly submit a claim for a health care benefit which was not used by, or on behalf of, the claimant.

(9) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud.

(10) Knowingly present for payment any undercharges for health care benefits on behalf of a specific claimant unless any known overcharges for health care benefits for that claimant are presented for reconciliation at that same time.

(11) For purposes of paragraphs (7) to (10), inclusive, a claim or a claim for payment of a health care benefit also means a claim or claim for payment submitted by or on the behalf of a provider of any workers' compensation health benefits under the Labor Code.

(b) It is unlawful to do, or to knowingly assist or conspire with any person to do, any of the following:

(1) Present or cause to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.

(2) Prepare or make any written or oral statement that is intended to be presented to any insurer or any insurance claimant in connection with, or in support of or opposition to, any claim or payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.

(3) Conceal or knowingly fail to disclose the occurrence of an event that affects any person's initial or continued right or entitlement to any insurance benefit or payment, or the amount of any benefit or payment to which the person is entitled.

(4) Prepare or make any written or oral statement, intended to be presented to any insurer or producer for the purpose of obtaining a motor vehicle insurance policy, that the person to be the insured resides or is domiciled in this state when, in fact, that person resides or is domiciled in a state other than this state.

(c) (1) Every person who violates paragraph (1), (2), (3), (4), (5), or (6) of subdivision (a) is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years, and by a fine not exceeding fifty thousand dollars ($50,000), unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double of the value of the fraud.

(2) Every person who violates paragraph (7), (8), (9), or (10) of subdivision (a) is guilty of a public offense.

(A) Where the claim or amount at issue exceeds four hundred dollars ($400), the offense is punishable by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine, unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(B) Where the claim or amount at issue is four hundred dollars ($400) or less, the offense is punishable by imprisonment in a county jail not to exceed six months, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine unless the aggregate amount of the claims or amount at issue exceeds four hundred dollars ($400) in any 12 consecutive month period, in which case the claims or amounts may be charged as in subparagraph (A).

(3) Every person who violates paragraph (1), (2), (3), or (4) of subdivision (b) shall be punished by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud, by both that imprisonment and fine, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(d) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who previously has been convicted of felony violations of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except where the existence of the fact was not admitted or found to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision shall not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) of, or Division 6 (commencing with Section 6000) of, the Welfare and Institutions Code.

(e) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision or in Section 548 shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision

(b). The existence of any fact which would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(f) This section shall not be construed to preclude the applicability of any other provision of criminal law that applies or may apply to any act committed or alleged to have been committed by a person.

(g) Any person who violates any provision of subdivision (a) shall be liable, in addition to any other penalty prescribed by law, for a civil penalty of up to five thousand dollars ($5,000) per claim or act, plus an assessment of not more than three times the amount of each claim for compensation submitted in violation of this section. The penalties provided for in this subdivision may be assessed and recovered in a civil action brought in the name of the people of the State of California by any district attorney, city attorney, or the Attorney General. Any civil penalty recovered shall be allocated as follows:

(1) If the action was brought by the Attorney General, 50 percent of the penalty collected shall be paid to the General Fund, and 50 percent of the penalty collected shall be paid to the Department of Insurance Fraud Account in the Insurance Fund.

(2) If the action was brought by a district attorney, 25 percent of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, 25 percent of the penalty collected shall be paid to the General Fund, and 50 percent of the penalty collected shall be paid to the Department of Insurance Fraud Account in the Insurance Fund.

(3) If the action was brought by a city attorney, 25 percent of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, 25 percent of the penalty collected shall be paid to the General Fund, and 50 percent of the penalty collected shall be paid to the Department of Insurance Fraud Account in the Insurance Fund.

(4) Moneys collected by the Department of Insurance pursuant to this subdivision shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund and shall be used solely for the investigation and prosecution of insurance fraud, as appropriated by the Legislature.

(h) This section shall remain operative only until January 1, 1999, and as of that date is repealed.

SEC. 3.2. Section 550 is added to the Penal Code, to read:

550. (a) It is unlawful to do any of the following:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(2) Knowingly present multiple claims for the same loss or injury,

including presentation of multiple claims to more than one insurer, with an intent to defraud.

(3) Knowingly cause or participate in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(4) Knowingly present a false or fraudulent claim for the payments of a loss for theft, destruction, damage, or conversion of a motor vehicle, a motor vehicle part, or contents of a motor vehicle.

(5) Knowingly prepare, make, or subscribe any writing, with the intent to present or use it, or to allow it to be presented in support of any false or fraudulent claim.

(6) Knowingly assist, abet, solicit, or conspire with any person described as follows:

(A) Any person who knowingly presents any false or fraudulent claim for the payment of a loss, including payment of a loss under a contract of insurance.

(B) Any person who knowingly presents multiple claims for the same loss or injury, including presentation of multiple claims to more than one insurer, with an intent to defraud.

(C) Any person who knowingly causes or participates in a vehicular collision, or any other vehicular accident, for the purpose of presenting any false or fraudulent claim.

(D) Any person who knowingly prepares, makes, or subscribes any writing, with the intent to present or use it, or to allow it to be presented in support on any false or fraudulent claim.

(7) Knowingly make or cause to be made any false or fraudulent claim for payment of a health care benefit.

(8) Knowingly submit a claim for a health care benefit which was not used by, or on behalf of, the claimant.

(9) Knowingly present multiple claims for payment of the same health care benefit with an intent to defraud.

(10) Knowingly present for payment any undercharges for health care benefits on behalf of a specific claimant unless any known overcharges for health care benefits for that claimant are presented for reconciliation at that same time.

(11) For purposes of paragraphs (7) to (10), inclusive, a claim or a claim for payment of a health care benefit also means a claim or claim for payment submitted by or on the behalf of a provider of any workers' compensation health benefits under the Labor Code.

(b) It is unlawful to do, or to knowingly assist or conspire with any person to do, any of the following:

(1) Present or cause to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.

(2) Prepare or make any written or oral statement that is intended to be presented to any insurer or any insurance claimant in connection with, or in support of or opposition to, any claim or

payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false or misleading information concerning any material fact.

(3) Conceal or knowingly fail to disclose the occurrence of an event that affects any person's initial or continued right or entitlement to any insurance benefit or payment, or the amount of any benefit or payment to which the person is entitled.

(4) Prepare or make any written or oral statement, intended to be presented to any insurer or producer for the purpose of obtaining a motor vehicle insurance policy, that the person to be the insured resides or is domiciled in this state when, in fact, that person resides or is domiciled in a state other than this state.

(c) (1) Every person who violates paragraph (1), (2), (3), (4), (5), or (6) of subdivision (a) is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years, and by a fine not exceeding fifty thousand dollars ($50,000), unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud.

(2) Every person who violates paragraph (7), (8), (9), or (10) of subdivision (a) is guilty of a public offense.

(A) Where the claim or amount at issue exceeds four hundred dollars ($400), the offense is punishable by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), or by both that imprisonment and fine, unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(B) Where the claim or amount at issue is four hundred dollars ($400) or less, the offense is punishable by imprisonment in a county jail not to exceed six months, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine unless the aggregate amount of the claims or amount at issue exceeds four hundred dollars ($400) in any 12 consecutive month period, in which case the claims or amounts may be charged as in subparagraph (A).

(3) Every person who violates paragraph (1), (2), (3), or (4) of subdivision (b) shall be punished by imprisonment in the state prison for two, three, or five years, by a fine not exceeding fifty thousand dollars ($50,000), unless the value of the fraud exceeds fifty thousand dollars ($50,000), in which event the fine may not exceed double the value of the fraud, by both that imprisonment and fine, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

(d) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who previously has been convicted of felony violations

of this section as an adult under charges separately brought and tried two or more times. The existence of any fact which would make a person ineligible for probation under this subdivision shall be alleged in the information or indictment, and either admitted by the defendant in an open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

Except where the existence of the fact was not admitted or found to be true or the court finds that a prior felony conviction was invalid, the court shall not strike or dismiss any prior felony convictions alleged in the information or indictment.

This subdivision shall not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) of, or Division 6 (commencing with Section 6000) of, the Welfare and Institutions Code.

(e) Any person who violates subdivision (a) and who has a prior felony conviction of the offense set forth in that subdivision or in Section 548 shall receive a two-year enhancement for each prior felony conviction in addition to the sentence provided in subdivision (b). The existence of any fact which would subject a person to a penalty enhancement shall be alleged in the information or indictment and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(f) This section shall not be construed to preclude the applicability of any other provision of civil or criminal law that applies or may apply to any act committed or alleged to have been committed by a person.

SEC. 4. Section 10902 of the Revenue and Taxation Code is amended to read:

10902. (a) In the event of a constructive total loss, in which the repair value exceeds the market value of the vehicle less the anticipated salvage value, or a nonrepairable vehicle, or an unrecovered total loss, due to a theft, of a vehicle, the in-lieu fee portion of the vehicle license fee that has been paid shall be refunded to the current registered owner (the owner of the salvage value of the vehicle), or credited against the vehicle license fee owed on the owner's replacement vehicle. The amount refunded or credited shall be based upon one-twelfth of the annual in-lieu fee for each full month that remains until the registration expires.

(b) No refund or credit shall be made pursuant to this section unless the vehicle owner has signed a declaration under penalty of perjury that he or she has not been cited or convicted of violating Section 23152 or 23153 of the Vehicle Code (relating to driving under the influence of alcohol or drugs) or Section 23103 as specified in Section 23103.5 of that code (which involves a substitute for an original citation of driving under the influence) in connection with

the owner's vehicle loss. If the owner has been cited under any of these code sections, the owner shall be entitled to the refund or credit upon presentation of either proof of dismissal of the citation or a finding of not guilty.

(c) The Department of Motor Vehicles may charge to vehicle owners requesting a refund or credit pursuant to this section a fee in an amount sufficient to cover the administrative costs of processing the request.

(d) In the case of a request for refund or credit with respect to a stolen vehicle, the vehicle owner shall not be entitled to a refund or credit prior to 60 days from the date the theft of the vehicle is reported to the police. If a refund is received or a credit is applied to another vehicle and the stolen vehicle is subsequently recovered, the owner shall return the amount refunded or credited. If the owner receives a refund or credit, and the destroyed or stolen vehicle is scrapped and subsequently repaired by another person, the new owner shall pay the full vehicle license fee.

(e) The Department of Motor Vehicles shall adopt regulations for the administration of the refunds and credits provided by this section.

SEC. 5. Section 220 of the Vehicle Code is amended to read:

220. An "automobile dismantler" is any person not otherwise expressly excluded by Section 221 who:

(a) Is engaged in the business of buying, selling, or dealing in vehicles of a type required to be registered under this code, including nonrepairable vehicles, for the purpose of dismantling the vehicles, who buys or sells the integral parts and component materials thereof, in whole or in part, or deals in used motor vehicle parts. This section does not apply to the occasional and incidental dismantling of vehicles by dealers who have secured dealers plates from the department for the current year whose principal business is buying and selling new and used vehicles, or by owners who desire to dismantle not more than three personal vehicles within any 12-month period.

(b) Notwithstanding the provisions of subdivision (a), keeps or maintains on real property owned by him, or under his possession or control, two or more unregistered motor vehicles no longer intended for, or in condition for, legal use on the highways, whether for the purpose of resale of used parts, for the purpose of reclaiming for use some or all of the materials, whether metal, glass, fabric, or otherwise, or to dispose of them, or for any other purpose.

SEC. 6. Section 431 is added to the Vehicle Code, to read:

431. A "nonrepairable vehicle" is a vehicle of a type otherwise subject to registration that meets the criteria specified in subdivision (a), (b), or (c). The vehicle shall be issued a nonrepairable vehicle certificate and shall not be titled or registered.

(a) A nonrepairable vehicle is a vehicle that has no resale value except as a source of parts or scrap metal, and which the owner irreversibly designates solely as a source of parts or scrap metal.

(b) A nonrepairable vehicle is a completely stripped vehicle (a surgical strip) recovered from theft, missing all of the bolt on sheet metal body panels, all of the doors and hatches, substantially all of the interior components, and substantially all of the grill and light assemblies, or that the owner designates has little or no resale value other than its worth as a source of scrap metal, or as a source of a vehicle identification number that could be used illegally.

(c) A nonrepairable vehicle is a completely burned vehicle (burned hulk) that has been burned to the extent that there are no more usable or repairable body or interior components, tires and wheels, or drive train components, and which the owner irreversibly designates as having little or no resale value other than its worth as scrap metal or as a source of a vehicle identification number that could be used illegally.

SEC. 6.5. Section 432 is added to the Vehicle Code, to read:

432. A "nonrepairable vehicle certificate" is a vehicle ownership document issued to the owner of a nonrepairable vehicle. Ownership of the vehicle may only be transferred two times on a nonrepairable vehicle certificate. A vehicle for which a nonrepairable vehicle certificate has been issued may not be titled or registered for use on the roads or highways of California. A nonrepairable vehicle certificate shall be conspicuously labeled with the word "nonrepairable" across the front.

SEC. 7. Section 543 of the Vehicle Code is amended to read:

543. "Salvage pool" means a person engaged exclusively in the business of disposing of total loss salvage vehicles, nonrepairable vehicles, or recovered stolen vehicles sent to it by, or on behalf of, insurance companies, authorized adjusters, leasing companies, self-insured persons, or financial institutions.

SEC. 8. Section 544 of the Vehicle Code is amended to read:

544. "Total loss salvage vehicle" means a vehicle, other than a nonrepairable vehicle, of a type subject to registration that has been wrecked, destroyed, or damaged, to such an extent that the owner, leasing company, financial institution, or the insurance company that insured the vehicle, considers it uneconomical to repair the vehicle and because of this, the vehicle is not repaired by or for the person who owned the vehicle at the time of the event resulting in damage.

SEC. 9. Section 5505 of the Vehicle Code is amended to read:

5505. (a) This section applies to any vehicle reported to be a total loss salvage vehicle pursuant to Section 11515 and to any vehicle reported to have been dismantled pursuant to Section 5500 or 11520.

(b) Whenever an application is made to the Department of Motor Vehicles to register a vehicle described in subdivision (a), the Department of the California Highway Patrol shall inspect the vehicle to determine its proper identity, including a review of bills of sale and invoices for component parts used in the reconstruction process, as described in subdivision (c). The seller of a salvage vehicle or the agent of the seller shall inform the purchaser of a salvage vehicle that ownership documentation for certain

replacement parts used in the repair of the salvage vehicle will be required in connection with the vehicle identification number inspection provided for in this subdivision.

(c) An individual in possession of a vehicle described in subdivision (a), who is submitting the vehicle for inspection as described in subdivision (b), shall present to the Department of the California Highway Patrol, bills of sale invoices or other acceptable proof of ownership component parts and invoices for minor component parts. Additionally, bills of sale and invoices shall include the year, make, model, and the vehicle identification number of the vehicle from which the parts were removed or sold, the name and signature of the person from whom the parts were acquired, and his or her address, and telephone number. To assist in the identification of the seller of new or used parts, the number of the seller's driver's license, identification card, social security card, or Federal Employer Identification Number shall be included on the bills of sale and invoice.

(d) As used in this section, the term "component parts for passenger motor vehicles" includes the cowl or firewall, front-end assembly, rear clip, including the roof panel, the roof panel when installed separately, and the frame or any portion thereof, or in the case of a unitized body, the supporting structure that serves as the frame, each door, the hood, each fender or quarter panel, deck lid or hatchback, each bumper, both T-tops, replacement transmissions or transaxles, and a replacement motor.

(1) As used in subdivision (d), "front-end assembly" includes all of the following: hood, fenders, bumper, and radiator supporting members for these items. For vehicles with a unitized body, the front-end assembly also includes the frame support members.

(2) As used in subdivision (d), "rear clip" includes the roof, quarter panels, trunk lid, floor pan, and the support members for each item.

(e) As used in this section, "major component parts for trucks, truck-type or bus-type vehicles" includes the cab, the frame or any portion thereof, and, in the case of a unitized body, the supporting structure which serves as a frame, the cargo compartment floor panel or passenger compartment floor pan, roof panel, and replacement transmissions or transaxles, and replacement motors, each door, hood, each fender or quarter panel, each bumper, and the tailgate. All component parts identified in subdivision (d), common to a truck, truck-type or bus-type vehicle, not listed in this section, shall be considered as included in this section if the part is replaced.

(1) "Major component parts for motorcycles" includes the engine or motor, transmission or transaxle, frame, front fork, and crankcase.

(2) "Minor component parts for motorcycles" includes the fairing and any other body molding.

SEC. 10. Section 6050 of the Vehicle Code is amended to read:

6050. (a) The department upon receipt of a properly endorsed certificate of ownership and the required fee shall reregister the

vehicle under its registration number in the name of the new owner and new legal owner, if any, and shall issue a new registration card and certificate of ownership as provided upon an original registration.

(b) The department shall not issue a new registration card and certificate of ownership pursuant to subdivision (a) on a vehicle that has been issued a nonrepairable vehicle certificate pursuant to Section 11515.2.

SEC. 11. Section 6161 is added to the Vehicle Code, to read:

6161. For the purposes of this chapter, the following provisions and definitions apply to the following terms:

(a) "Certified record of permanent exportation" shall include all of the following:

(1) The titled owner's name and address.

(2) A description of the vehicle, including year, make, body type, vehicle identification number, license registration number, and state registration.

(3) The destination of vehicle.

(4) The purpose of export, whether sale, lease, or personal use.

(b) "Declaration that the vehicle will not be permanently located outside the United States" shall include the items specified in paragraphs (1) to (3), inclusive, of subdivision (a), and shall also state the period of time for which it is anticipated that the vehicle will be outside the United States.

(c) "Export" means the shipping or transporting of a vehicle out of the United States by means other than its own power or that of a vehicle drawing or towing it.

(d) "Owner" means the owner of record indicated in a certificate of title issued by this state and includes an agent of that owner acting under a valid power of attorney executed by an owner.

(e) "Title" means the certificate of ownership issued by the department pursuant to Section 4450, but excludes a salvage certificate, as described in Section 11515, a nonrepairable vehicle certificate, as defined in Section 432, and an acquisition bill of sale, as described in Section 11519.

(f) "Vehicle" means every device designed for transportation of persons or property upon land, for which a certificate of title is required.

SEC. 12. Section 9255.2 is added to the Vehicle Code, to read:

9255.2. (a) In addition to any other fees specified in this code and the Revenue and Taxation Code, a fee of fifty dollars ($50) shall be paid to the Department of the California Highway Patrol at the time inspection is made for initial registration or transfer of ownership of a vehicle included in paragraphs (1) and (2) of subdivision (b) of Section 4453.

(b) After deducting all costs incurred pursuant to this section, the Department of the California Highway Patrol shall deposit the fees collected pursuant to subdivision (a) in the Motor Vehicle Account in the State Transportation Fund. The money deposited in the

account shall be available, upon appropriation by the Legislature, for expenditure to offset the costs incurred as a result of conducting the inspections required by Section 5505.

SEC. 13. Section 11515.1 of the Vehicle Code is amended to read:

11515.1. A salvage pool shall sell a vehicle only with either of the following:

(a) A salvage certificate, except those vehicles described in subdivision (f) of Section 11515, which may be sold with a certificate of title.

(b) A nonrepairable vehicle certificate, except those vehicles described in subdivision (f) of Section 11515.2, which may be sold with a certificate of title.

SEC. 14. Section 11515.2 is added to the Vehicle Code, to read:

11515.2. (a) Whenever an insurance company makes a total loss settlement on a nonrepairable vehicle and takes possession of that vehicle, either itself or through an agent, the insurance company, an occupational licensee of the department authorized by the insurance company, or a salvage pool authorized by the insurance company, shall, within 10 days after receipt of title by the insurer, free and clear of all liens, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a three-dollar ($3) fee, to the department. An occupational licensee of the department may submit a certificate of license plate destruction in lieu of the actual license plate. The department, upon receipt of the certificate of ownership or other evidence of title, the license plates, and the three-dollar ($3) fee, shall issue a nonrepairable vehicle certificate for the vehicle.

(b) Whenever the owner of a nonrepairable vehicle retains possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with this subdivision. The owner shall, within 10 days from the settlement of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a three-dollar ($3) fee to the department. The department, upon receipt of the certificate of ownership or other evidence of title, the license plates, and the three-dollar ($3) fee, shall issue a nonrepairable vehicle certificate for the vehicle.

(c) Whenever a nonrepairable vehicle is not the subject of an insurance settlement, the owner shall, within 10 days from the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a three-dollar ($3) fee to the department.

(d) Whenever a nonrepairable vehicle is not the subject of an insurance settlement, a self-insurer, as defined in Section 16052, shall, within 10 days of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a three-dollar ($3) fee to the

department.

(e) Prior to sale or disposal of a nonrepairable vehicle, the owner, owner's agent, or salvage pool, shall obtain a properly endorsed nonrepairable vehicle certificate and deliver it to the purchaser within 10 days after payment in full for the nonrepairable vehicle and shall also comply with Section 5900. The department shall accept the endorsed nonrepairable vehicle certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees, including, but not limited to, the fees required by Section 9265, as may be required by the department.

(f) This section does not apply to a vehicle that has been driven or taken without the consent of the owner thereof, until the vehicle has been recovered by the owner and only if the vehicle is a nonrepairable vehicle.

(g) A nonrepairable vehicle certificate shall be conspicuously labeled with the words "NONREPAIRABLE VEHICLE" across the front of the certificate.

(h) A violation of subdivision (a), (b), (d), or (e) is a misdemeanor, pursuant to Section 40000.11. Notwithstanding Section 40000.11, a violation of subdivision (c) is an infraction, except that, if committed with intent to defraud, a violation of subdivision (c) is a misdemeanor.

SEC. 15. Section 11519 of the Vehicle Code is amended to read:

11519. No vehicle that has been reported dismantled may be subsequently registered until there is submitted to the department with the prescribed bill of sale an appropriate application, a certificate of inspection from the Department of the California Highway Patrol issued pursuant to Section 5505, official lamp and brake adjustment certificates issued by an official lamp and brake adjusting station licensed by the Department of Consumer Affairs, except that fleet owners of motor trucks of three or more axles which are more than 6,000 pounds unladen weight and truck tractors may instead submit an official lamp and brake certification for their rebuilt vehicle if they operate an inspection and maintenance station licensed by the commissioner pursuant to subdivision (b) of Section 2525, other documents and fees required, and, with respect to any motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, a valid certificate of compliance from a licensed motor vehicle pollution control device installation and inspection station indicating that the vehicle is properly equipped with a motor vehicle pollution control device or devices which are in proper operating condition and which are in compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code.

SEC. 16. Section 11520 of the Vehicle Code is amended to read:

11520. (a) A licensed automobile dismantler who acquired, for the purpose of dismantling, actual possession, as a transferee, of a vehicle of a type subject to registration under this code shall do all

of the following:

(1) Within five calendar days, not including the day of acquisition, mail a notice of acquisition to the department at its headquarters.

(2) Within five calendar days, not including the day of acquisition, mail a copy of the notice of acquisition to the Department of Justice at its headquarters.

(3) Not begin dismantling until 10 calendar days have elapsed after mailing the notice of acquisition. In the alternative, dismantling may begin any time after the dismantler complies with paragraph (4).

(4) Deliver to the department, within 90 calendar days of the date of acquisition, the documents evidencing ownership and the license plates last issued for the vehicle. Proof that a registered or certified letter of demand for the documents was sent within 90 days of the date of acquisition to the person from whom the vehicle was acquired may be substituted for documents that cannot otherwise be obtained. A certificate of license plate destruction, when authorized by the director, may be delivered in lieu of the license plates.

(5) Maintain a business record of all vehicles acquired for dismantling. The record shall contain the name and address of the person from whom the vehicle was acquired; the date the vehicle was acquired; the license plate number last assigned to the vehicle; and a brief description of the vehicle, including its make, type, and the vehicle identification number used for registration purposes. The record required by this paragraph shall be a business record of the dismantler separate and distinct from the records maintained in those books and forms furnished by the department.

(b) Paragraphs (1) and (2) of subdivision (a) do not apply to vehicles acquired pursuant to Section 11515, 11515.2, 22851.2, or 22851.3 of this code or Section 3071, 3072, or 3073 of the Civil Code.

SEC. 17. Section 11540 of the Vehicle Code is amended to read:

11540. (a) A salvage pool shall maintain an accurate record of every vehicle it acquires and every vehicle it disposes of, and shall notify the department of the disposition of any vehicle pursuant to Section 5900.

(b) Whenever a salvage pool acquires a total loss salvage vehicle, a nonrepairable vehicle, or a recovered stolen vehicle and the license plates on the vehicle have not been removed pursuant to subdivision (a) of Section 11515, subdivision (a) of Section 11515.2, or any other provision of law, the salvage pool shall, prior to disposing of that vehicle, remove and submit the license plates to the department. The salvage pool shall maintain an accurate record of every license plate it acquires and disposes of, which records shall be maintained for two years and be open for inspection by any peace officer during the regular business hours of that salvage pool.

SEC. 18. Section 24007 of the Vehicle Code is amended to read:

24007. (a) (1) No dealer or person holding a retail seller's permit shall sell a new or used vehicle which is not in compliance with this code and departmental regulations adopted pursuant to this

code, unless the vehicle is sold to another dealer, sold for the purpose of being legally wrecked or dismantled, or sold exclusively for off-highway use.

(2) Paragraph (1) does not apply to any vehicle sold by either (A) a dismantler after being reported for dismantling pursuant to Section 11520 or (B) a salvage pool after obtaining a salvage certificate pursuant to Section 11515 or a nonrepairable vehicle certificate issued pursuant to Section 11515.2.

(b) (1) Except as provided in Section 24007.5, no person shall sell, or offer or deliver for sale, to the ultimate purchaser or to any subsequent purchaser a new or used motor vehicle, as those terms are defined in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code, subject to Part 5 (commencing with Section 43000) of that Division 26 which is not in compliance with that Part 5 and the rules and regulations of the State Air Resources Board, unless the vehicle is sold to a dealer or sold for the purpose of being legally wrecked or dismantled.

(2) Prior to or at the time of delivery for sale, the seller shall provide the purchaser a valid certificate of compliance or certificate of noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code.

(3) Paragraph (2) does not apply to any vehicle whose transfer of ownership and registration is described in subdivision (d) of Section 4000.1.

(4) Paragraphs (1) and (2) do not apply to any vehicle sold by either (A) a dismantler after being reported for dismantling pursuant to Section 11520 or (B) a salvage pool after obtaining a salvage certificate pursuant to Section 11515 or or a nonrepairable vehicle certificate issued pursuant to Section 11515.2.

(c) (1) With each application for initial registration of a new motor vehicle or transfer of registration of a motor vehicle subject to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, a dealer, the purchaser, or his or her authorized representative, shall transmit to the Department of Motor Vehicles a valid certificate of compliance or noncompliance, as appropriate, issued in accordance with Section 44015 of the Health and Safety Code.

(2) Notwithstanding paragraph (1) of this subdivision, with respect to new vehicles certified pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, a dealer may transmit, in lieu of a certificate of compliance, a statement, in a form and containing information deemed necessary and appropriate by the Director of Motor Vehicles and the Executive Officer of the State Air Resources Board, to attest to the vehicle's compliance with that Chapter 2. The statement shall be certified under penalty of perjury, and shall be signed by the dealer or the dealer's authorized representative.

SEC. 19. Sections 5 to 10, inclusive, and Sections 12 to 18, inclusive, of this act shall become operative July 1, 1995.

SEC. 20. Section 2 of this act shall become operative only if Senate Bill 2050 is enacted and becomes operative.

SEC. 21. Section 11 of this act shall become operative only if Assembly Bill 1926 is enacted and becomes operative.

SEC. 22. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 23. Sections 3.1 and 3.2 incorporate amendments to Section 550 of the Penal Code proposed by both this bill and AB 3751. They shall only become operative if (1) both bills are enacted and become effective, (2) each bill amends Section 550 of the Penal Code, and (3) this bill is enacted after AB 3751, in which case Section 3 of this bill shall not become operative.

CHAPTER 1009

An act to add Division 8.5 (commencing with Section 22950) to the Business and Professions Code, and to amend Section 216 of the Health and Safety Code, relating to tobacco.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Division 8.5 (commencing with Section 22950) is added to the Business and Professions Code, to read:

DIVISION 8.5. STOP TOBACCO ACCESS TO KIDS ENFORCEMENT ACT

22950. This Division shall be known and may be referred to as the Stop Tobacco Access to Kids Enforcement Act or the STAKE Act.

22951. The Legislature finds and declares that reducing and eventually eliminating the illegal purchase and consumption of tobacco products by minors is critical to ensuring the long-term health of our state's citizens. Accordingly, California must fully comply with federal regulations, particularly the "Synar Amendment," that restrict tobacco sales to minors and require states to vigorously enforce their laws prohibiting the sale and distribution of tobacco products to persons under 18 years of age.

22952. On or before July 1, 1995, the State Department of Health Services shall do all of the following:

(a) Establish and develop a program to reduce the availability of tobacco products to persons under 18 years of age through the enforcement activities authorized by this division.

(b) Establish requirements that retailers of tobacco products post conspicuously, at each point of purchase, a notice stating that selling tobacco products to anyone under 18 years of age is illegal and subject to penalties. The notice shall also state that the law requires that all persons selling tobacco products check the identification of any purchaser of tobacco products who reasonably appears to be under 18 years of age. The warning signs shall include a toll-free telephone number to the state department for persons to report unlawful sales of tobacco products to minors.

(c) Provide that primary responsibility for enforcement of this division shall be with the state department. In carrying out its enforcement responsibilities, the state department shall conduct random, onsite sting inspections at retail sites and shall enlist the assistance of persons that are 15 and 16 years of age in conducting these enforcement activities. Participation in these enforcement activities by a person under 18 years of age shall not constitute a violation of subdivision (b) of Section 308 of the Penal Code for the person under 18 years of age, and the person under 18 years of age is immune from prosecution thereunder, or under any other provision of law prohibiting the purchase of these products by a person under 18 years of age.

(d) In accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the state department shall adopt and publish guidelines for the use of persons under 18 years of age in inspections conducted pursuant to subdivision (c), that shall include, but not be limited to, all of the following:

(1) The state department and any local law enforcement agency under an enforcement delegation contract with the department may use persons under 18 years of age who are 15 or 16 years of age in random inspections to determine if sales of cigarettes or other tobacco products are being made to persons under 18 years of age.

(2) A photograph or video recording of the person under 18 years of age shall be taken prior to each inspection or shift of inspections and retained by the department or the local law enforcement agency under an enforcement delegation contract with the department for purposes of verifying appearances.

(3) The state department or a local law enforcement agency under an enforcement delegation contract with the department may use video recording equipment when conducting the inspections to record and document illegal sales or attempted sales.

(4) The person under 18 years of age, if questioned about his or her age, shall state his or her actual age and shall present a true and correct identification if verbally asked to present it. Any failure on

the part of the person under 18 years of age to provide true and correct identification, if verbally asked for it, shall be a defense to any action pursuant to this section.

(5) The person under 18 years of age shall be under the supervision of a regularly employed peace officer during the inspection.

(6) All persons under 18 years of age used in this manner by the department or a local law enforcement agency under an enforcement delegation contract with the department shall display the appearance of a person under 18 years of age. It shall be a defense to any action under this division that the person's appearance was not that which could be generally expected of a person under 18 years of age, under the actual circumstances presented to the seller of the cigarettes or other tobacco products at the time of the alleged offense.

(7) Following the completion of the sale, or attempted sale, the peace officer accompanying the person under 18 years of age shall reenter the retail establishment and inform the seller of the random inspection and identify the person under 18 years of age to the seller.

(8) Failure to comply with the procedures set forth in this subdivision shall be a defense to any action brought pursuant to this section.

(e) Be responsible for ensuring and reporting the state's compliance with Section 1926 of Title XIX of the federal Public Health Service Act (42 U.S.C. 300x-26) and any implementing regulations adopted in relation thereto by the United States Department of Health and Human Services. A copy of this report shall be made available to the Governor and the Legislature.

(f) Provide that any civil penalties imposed pursuant to Section 22958 shall be enforced against the owner or owners of the retail business and not the employees of the business.

22953. (a) Except as provided in subdivision (b), all moneys collected as civil penalties pursuant to this division in the 1995–96, 1996–97, 1997–98, and 1998–99 fiscal years shall be deposited in the State Treasury to the credit of the Sale of Tobacco to Minors Control Account that is hereby established. Thereafter, these civil penalties shall be deposited in the General Fund.

(b) Notwithstanding subdivision (a), all funds collected within any one fiscal year as civil penalties pursuant to this division that exceed the sum of three hundred thousand dollars ($300,000) shall be deposited in the General Fund.

22954. Any cigarette or tobacco products distributor or wholesaler as defined in Sections 30011 and 30016 of the Revenue and Taxation Code, and licensed under Article 1 (commencing with Section 30140) of Chapter 3 of Part 13 of Division 2 of the Revenue and Taxation Code or Article 3 (commencing with Section 30155) of Chapter 3 of Part 13 of Division 2 of the Revenue and Taxation Code, and any cigarette vending machine operator granted a seller's permit under the Sales and Use Tax Law (Part 1 (commencing with

Section 6001) of Division 2 of the Revenue and Taxation Code), shall annually provide to the State Department of Health Services, the names and addresses of those persons to whom they provide tobacco products, including, but not limited to, dealers as defined in Section 30012 of the Revenue and Taxation Code, for the purpose of identifying retailers of tobacco to ensure compliance with this division.

Cigarette vending machine operators granted a seller's permit under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), shall annually provide to the department their name and the address of each location where cigarette vending machines are placed, in order to ensure compliance with this division.

The data provided, pursuant to this section, shall be deemed confidential official information by the department and shall be exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

22955. Agents of the state department, while conducting enforcement activities pursuant to this division, are peace officers and are subject to all of the powers and immunities granted to Food and Drug Section inspectors pursuant to Section 216 of the Health and Safety Code in the same manner as are any Food and Drug Section inspectors of the state department.

22956. All persons engaging in the retail sale of tobacco products shall check the identification of tobacco purchasers, to establish the age of the purchaser, if the purchaser reasonably appears to be under 18 years of age.

22957. (a) The state department may enter into an agreement with local law enforcement agencies for delegation of the enforcement of this division within their local jurisdictions. The contract shall require the enforcement activities of the local law enforcement agencies to comply with this division and with all applicable laws and the guidelines developed pursuant to Section 22951.

(b) In cases where enforcement has been delegated to local law enforcement agencies pursuant to this section, any enforcement by the state department in those jurisdictions shall be coordinated with the local law enforcement agencies and the state department may not duplicate enforcement activities, so as to result in a duplication of civil penalties or assessments under this division.

(c) The state department shall reimburse local law enforcement agencies for enforcement costs pursuant to delegation contracts, not to exceed the projected costs to the department for enforcement of this division in those jurisdictions. Reimbursements shall be made from the Sale of Tobacco to Minors Control Account.

22958. (a) The state department may assess civil penalties against any person, firm, or corporation that sells, gives, or in any way furnishes to another person who is under the age of 18 years, any

tobacco, cigarette, or cigarette papers, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance, according to the following schedule: (1) a civil penalty of from two hundred dollars ($200) to three hundred dollars ($300) for the first violation, (2) a civil penalty of from six hundred dollars ($600) to nine hundred dollars ($900) for the second violation within a five-year period, (3) a civil penalty of from one thousand two hundred dollars ($1,200) to one thousand eight hundred dollars ($1,800) for a third violation within a five-year period, (4) a civil penalty of from three thousand dollars ($3,000) to four thousand dollars ($4,000) for a fourth violation within a five-year period, or (5) a civil penalty of from five thousand dollars ($5,000) to six thousand dollars ($6,000) for a fifth or subsequent violation within a five-year period.

(b) If a civil penalty has been assessed pursuant to this section against any person, firm, or corporation for a single, specific violation of this division, the person, firm, or corporation shall not be prosecuted under Section 308 of the Penal Code for a violation based on the same facts or specific incident for which the civil penalty was assessed. If any person, firm, or corporation has been prosecuted for a single, specific violation of Section 308 of the Penal Code, the person, firm, or corporation shall not be assessed a civil penalty under this section based on the same facts or specific incident upon which the prosection under Section 308 of the Penal Code was based.

(c) (1) In the case of a corporation or business with more than one retail location, to determine the number of accumulated violations for purposes of the penalty schedule set forth in subdivision (a), violations of this division by one retail location shall not be accumulated against other retail locations of that same corporation or business.

(2) In the case of a retail location that operates pursuant to a franchise as defined in Section 20001 of the Business and Professions Code, violations of this division accumulated and assessed against a prior owner of a single franchise location shall not be accumulated against a new owner of the same single franchise location for purposes of the penalty schedule set forth in subdivision (a).

(d) Proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

22959. (a) The sum of one million five hundred thousand dollars ($1,500,000) in the 1994–95 fiscal year and the sum of two million dollars ($2,000,000) in the 1995–96, 1996–97, 1997–98, and 1998–99 fiscal years shall be transferred annually from the portion of the federal Substance Abuse Prevention and Treatment block grant moneys allocated to the State Department of Alcohol and Drug Programs for administrative purposes related to substance abuse programs, to the Sale of Tobacco to Minors Control Account.

(b) Upon appropriation by the Legislature, moneys in the Sale of

Tobacco to Minors Control Account shall be expended by the state department to administer and enforce this division.

SEC. 2. Section 216 of the Health and Safety Code is amended to read:

216. (a) The chief and those inspectors of the Food and Drug Section as he or she may designate, are peace officers for the purpose only of carrying out the duties of their employment. The authority of the peace officer shall extend to any place in the state as to any public offense committed, or which there is reasonable cause to believe has been committed, within this state that is a violation of any provision of Division 8.5 (commencing with Section 22950) of the Business and Professions Code, Division 21 (commencing with Section 26000), or Division 22 (commencing with Section 27000) of this code, or Chapter 4 (commencing with Section 41301) of Division 16 of the Food and Agricultural Code. This authority shall further extend to violations of any penal provision of this code, the Business and Professions Code, or the Penal Code, that are discovered in the course of and arise in connection with the employment of these officers.

(b) Any inspector of the Food and Drug Section shall have the authority, as a public officer, to arrest, without a warrant, any person who, in his or her presence, has violated, or as to whom there is probable cause to believe has violated, any provision of Division 21 (commencing with Section 26000) or Division 22 (commencing with Section 27000) of this code, or Chapter 4 (commencing with Section 41301) of Division 16 of the Food and Agricultural Code.

In any case in which an arrest authorized by this subdivision is made for an offense declared to be a misdemeanor, and the person arrested does not demand to be taken before a magistrate, the arresting inspector may, instead of taking the person before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. The provisions of that chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(c) There shall be no civil liability on the part of and no cause of action shall arise against any person, acting pursuant to subdivision (b) and within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest that is lawful or that the arresting inspector, at the time of the arrest, had reasonable cause to believe was lawful. No inspector shall be deemed an aggressor or lose his or her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

(d) The chief and inspectors of the Food and Drug Section may serve all processes and notices throughout the state.

CHAPTER 1010

An act to amend Sections 128, 302, 653, 1201, 2032, 3300, 4039, 4081, 5035, 5219, 7210.5, 7500.1, 7512.3, 7590.1, 8504, 9801, 9880.1, 9891.1, 9998.1, 14001, 14204, 18402, 18824, 18830, 19413, 20008, 21500, and 22104 of the Business and Professions Code, to amend Sections 51.5, 81, 987, 1738, 1739.7, 1740, 1761, 1785.3, 1786.2, 1788.2, 1789.12, 1791, 1798.3, 1799, 1799.101, 1802.15, 1812.201, 1812.300, 1812.501, 1812.601, 1882, 2430, 2945.1, 2981, 2985.7, 3343.5, 3372, 3426.1, 3439.01, and 3504 of the Civil Code, to amend Sections 116.130, 481.170, 511.070, 680.280, 706.011, 1203.51, 1235.160, and 1601 of the Code of Civil Procedure, to amend Sections 605, 12245, 13401, 15002, 15611, 15617, 15622, 15623, 15624, 15625, 15631, 15632, 15633, 15636, 15637, 15641, 15643, 15644, 15645, 15655, 15662, 15663, 15664, 15666, 15672, 15674, 15675, 15681, 24000, 29001, 29514, and 31015 of the Corporations Code, to amend Sections 32380 and 66405 of the Education Code, to amend Sections 3564.1, 3785.1, 5014.1, 5157.6, and 5326 of the Elections Code, to amend Sections 175, 954, 994, and 1014 of the Evidence Code, to amend Section 105 of the Family Code, to amend Sections 18, 113, 700, 1755, 1852, 5113, 17002.5, 22008.1, 24008.1, 26008.1, 30003, 31048, and 33061 of the Financial Code, to amend Sections 67, 711.2, 7690, and 7850 of the Fish and Game Code, to amend Sections 38, 14554, 14937, 18672, 61313, 61834, 64013, 64506, and 77527 of the Food and Agricultural Code, to amend Sections 17, 4217.11, 6252, 7260, 7465, 9072, 12604, 12650, 12925, 50568, 82047, and 85102 of the Government Code, to amend Sections 19, 293, 294, 651, and 773.2 of the Harbors and Navigation Code, to amend Sections 19, 1170.2, 1175.2, 1345, 1596.79, 4010.1, 7150.1, 7186, 11022, 17009.5, 25026, 25249.11, 25270.2, 25319, 25420, 25805, 26024, 27530, 28501, 37912, and 52016 of the Health and Safety Code, to amend Sections 19, 729, 791.02, 1067.04, 14001, and 15001 of the Insurance Code, to amend Sections 18, 1117, 1132.2, 1140.4, 1500, 1682, 1700, 2650, 2671, and 5156 of the Labor Code, to amend Sections 480.2 and 1000.2 of the Military and Veterans Code, to amend Sections 311, 313, 374.2, 498, 574, 632, 637.5, 639, 653h, 653.56, 11207, 11234, and 12277 of the Penal Code, to amend Section 56 of the Probate Code, to amend Sections 2004, 3316.1, 3460, 3635.1, 4101, 4464, 4525, 4793, 6331, 8750, 21066, 25116, 25953, 29117, and 30111 of the Public Resources Code, to amend Sections 4662, 5502, 21009, 102020, and 103019 of the Public Utilities Code, to amend Sections 69.5 and 13203 of the Revenue and Taxation Code, to amend Section 19 of the Streets and Highways Code, to amend Section 470 of the Vehicle Code, to amend Sections 19, 72140.1, and 75501 of the Water Code, and to amend Section 24 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933), Section 26.1 of the Santa Clara Valley Water District Act (Chapter 1405 of the Statutes of 1951), Section 4.1 of the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), Section 36 of the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session), Section 7.2 of the

San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953), Section 14.21 of the Kern County Water Agency Act (Chapter 1003 of the Statutes of 1961), Section 342 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977), Section 315 of the Sierra Valley Groundwater Basin Act (Chapter 449 of the Statutes of 1980), Section 319 of the Fox Canyon Groundwater Management Agency Act (Chapter 1023 of the Statutes of 1982), Section 313 of the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984), Section 315 of the Mono County Tri-Valley Groundwater Management District Act (Chapter 844 of the Statutes of 1989), Section 315 of the Honey Lake Valley Groundwater Basin Act (Chapter 1392 of the Statutes of 1989), and Section 320 of the Ojai Basin Groundwater Management Agency Act (Chapter 750 of the Statutes of 1991), relating to legal entities.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 128 of the Business and Professions Code is amended to read:

128. Notwithstanding any other provision of law, it is a misdemeanor to sell equipment, supplies, or services to any person with knowledge that the equipment, supplies, or services are to be used in the performance of a service or contract in violation of the licensing requirements of this code.

The provisions of this section shall not be applicable to cash sales of less than one hundred dollars ($100).

For the purposes of this section, "person" includes, but is not limited to, a company, partnership, limited liability company, firm, or corporation.

For the purposes of this section, "license" includes certificate or registration.

A violation of this section shall be punishable by a fine of not less than one thousand dollars ($1,000) and by imprisonment in the county jail not exceeding six months.

SEC. 2. Section 302 of the Business and Professions Code is amended to read:

302. As used in this chapter, the following terms have the following meanings:

(a) "Department" means the Department of Consumer Affairs.

(b) "Director" means the Director of the Department of Consumer Affairs.

(c) "Consumer" means any individual who seeks or acquires, by purchase or lease, any goods, services, money, or credit for personal, family, or household purposes.

(d) "Person" means an individual, partnership, corporation,

limited liability company, association, or other group, however organized.

(e) "Individual" does not include a partnership, corporation, association, or other group, however organized.

(f) "Division" means the Division of Consumer Services.

(g) "Interests of consumers" is limited to the cost, quality, purity, safety, durability, performance, effectiveness, dependability, availability, and adequacy of choice of goods and services offered or furnished to consumers and the adequacy and accuracy of information relating to consumer goods, services, money, or credit (including labeling, packaging, and advertising of contents, qualities, and terms of sales).

SEC. 3. Section 653 of the Business and Professions Code is amended to read:

653. The word "person" as used in this article includes an individual, firm, partnership, association, corporation, limited liability company, or cooperative association.

SEC. 4. Section 1201 of the Business and Professions Code is amended to read:

1201. As used in this chapter, "person" includes firm, association, partnership, individual, limited liability company, and corporation.

SEC. 5. Section 2032 of the Business and Professions Code is amended to read:

2032. "Person" means any individual, partnership, corporation, limited liability company, or other organization, or any combination thereof, except that only natural persons shall be licensed under this chapter.

SEC. 6. Section 3300 of the Business and Professions Code is amended to read:

3300. "Person," as used in this chapter, includes any individual, partnership, corporation, limited liability company, or other organization, or any combination thereof.

SEC. 7. Section 4039 of the Business and Professions Code is amended to read:

4039. "Person" includes firm, association, partnership, corporation, limited liability company, state governmental agency, or political subdivision.

SEC. 7.1. Section 4081 of the Business and Professions Code is amended to read:

4081. (a) Each application to conduct a pharmacy or medical device retailer shall be made on a form furnished by the board, and shall state the name, address, usual occupation, and professional qualifications, if any, of the applicant. If the applicant is other than a natural person, the application shall state the information as to each person beneficially interested therein.

(b) As used in this section, and subject to subdivision (c), the term "person beneficially interested" means and includes:

(1) If the applicant is a partnership or other unincorporated association, each partner or member.

(2) If the applicant is a corporation, each of its officers, directors, and stockholders, provided that no natural person shall be deemed to be beneficially interested in a nonprofit corporation.

(3) If the applicant is a limited liability company, each officer, manager, or member.

(c) In any case where the applicant is a partnership or other unincorporated association, or is a limited liability company, or is a corporation, and where the number of partners, members, or stockholders, as the case may be, exceeds five, the application shall so state, and shall further state the information required by subdivision (a) as to each of the five partners, members, or stockholders who own the five largest interests in the applicant entity. Upon request by the executive officer, the applicant shall furnish the board with the information required by subdivision (a) as to partners, members, or stockholders not named in the application, or shall refer the board to an appropriate source of that information.

(d) The application shall contain a statement to the effect that the applicant has not been convicted of a felony and has not violated any of the provisions of this chapter. If the applicant cannot make this statement the application shall contain a statement of the violation, if any, or reasons that will prevent the applicant from being able to comply with the requirements with respect to the statement.

(e) Upon the approval of the application by the board and payment of the fee required by this chapter for each pharmacy or medical device retailer, the executive officer of the board shall issue a permit to conduct a pharmacy or medical device retailer under the provisions of Section 4080, if all of the provisions of this chapter have been complied with.

(f) Any other provision of law notwithstanding, the permit shall authorize the holder to conduct a pharmacy and to sell and dispense prophylactics, hypodermics, hypnotics, and poisons. The permit shall be renewed annually and shall not be transferable, and any change in the beneficial ownership interest of the pharmacy shall be reported within 30 days thereafter upon a form to be furnished by the board.

(g) Any other provision of law notwithstanding, the medical device retailer permit shall authorize the holder thereof to conduct a medical device retailer and to sell and dispense dangerous devices as defined in Section 4211. Any change in the beneficial ownership interest of the medical device retailer shall be reported within 30 days thereafter upon a form to be furnished by the board.

SEC. 8. Section 5035 of the Business and Professions Code is amended to read:

5035. "Person" includes individual, partnership, firm, association, limited liability company, or corporation, unless otherwise provided.

SEC. 9. Section 5219 of the Business and Professions Code is amended to read:

5219. "Person" includes natural person, firm, cooperative,

partnership, association, limited liability company, and corporation.

SEC. 10. Section 7210.5 of the Business and Professions Code is amended to read:

7210.5. It is unlawful to solicit funds for any person purporting to provide guide dogs for the blind in this state unless the person for whose benefit the solicitation is made holds a valid and unimpaired license issued by the State Board of Guide Dogs for the Blind.

As used in this section "person" means an individual, firm, partnership, association, corporation, limited liability company, or cooperative association.

SEC. 11. Section 7500.1 of the Business and Professions Code is amended to read:

7500.1. The following terms as used in this chapter have the meaning expressed in this section.

(a) "Person" includes any individual, partnership, limited liability company, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Security and Investigative Services.

(e) "Chief" means the Chief of the Bureau of Security and Investigative Services.

(f) "Licensee" means an individual, partnership, or corporation licensed under this chapter as a repossession agency.

(g) "Qualified certificate holder" or "qualified manager" is a person who possesses a valid qualification certificate in accordance with the provisions of Article 5 (commencing with Section 7504) and is in active control or management of, and who is a director of, the licensee's place of business.

(h) "Employee" means a person registered under this chapter.

(i) "Services" means any duty or labor to be rendered by one person for another.

(j) "Dangerous drugs" means any controlled substances as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(k) "Deadly weapon" means and includes any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade, and any metal pipe or bar used or intended to be used as a club.

(*l*) "Combustibles" means any substance or article that is capable of undergoing combustion or catching fire, or that is flammable, if retained.

(m) "Health hazard" means any personal effects which if retained would produce an unsanitary or unhealthful condition.

(n) "Advertisement" means any written or printed communication, including a directory listing, except a free telephone directory listing which does not allow space for a license number.

(o) "Assignment" means an authorization by the legal owner, lienholder, lessor, or lessee to recover, or to collect money payment in lieu of recovery of, personal property, including, but not limited to, personal property registered under the Vehicle Code which has been sold under a security agreement that contains a repossession clause. "Assignment" also means an authorization by the registered owner to recover personal property registered under the Vehicle Code where an employer-employee relationship exists or existed between the registered owner and the possessor of the property and the possessor is wrongfully in possession of the property.

(p) "Security agreement" means an obligation, pledge, mortgage, chattel mortgage, lease agreement, deposit, or lien, given by a debtor as security for payment or performance of his or her debt, by furnishing the creditor with a recourse to be used in case of failure in the principal obligation.

(q) "Legal owner" means a person holding a security interest in personal property which has been sold, leased, or rented under a security agreement.

(r) "Private building" means and includes any dwelling, outbuilding, or other enclosed structure.

(s) "Secured area" means and includes any fenced and locked area.

(t) "Violent act" means any act which results in bodily harm or injury to any party involved.

(u) "Personal property" means any vehicle, boat, recreational vehicle, motor home, appliance, or other property which has been sold under a security agreement.

(v) "Personal effects" means any property contained within repossessed personal property which is not the property of the legal owner.

SEC. 12. Section 7512.3 of the Business and Professions Code is amended to read:

7512.3. As used in this chapter, "person" includes any individual, firm, company, association, organization, partnership, limited liability company, and corporation.

SEC. 13. Section 7590.1 of the Business and Professions Code is amended to read:

7590.1. The following terms as used in this chapter have the meaning expressed in this article:

(a) "Person" means any individual, firm, company, association, organization, partnership, limited liability company, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Security and Investigative Services.

(e) "Chief" means the Chief of the Bureau of Security and Investigative Services.

(f) "Employer" means a person who employs an individual for wages or salary, lists the individual on the employer's payroll records,

and withholds all legally required deductions and contributions.

(g) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's direction and control.

(h) "Employer-employee relationship" means an individual who works for another and where the individual's name appears on the payroll records of the employer.

(i) "Licensee" means a business entity, whether an individual, partnership, or corporation licensed under this chapter.

(j) "Qualified manager" means an individual who is in active control, management, and direction of the licensee's business, and who is in possession of a current and valid qualified manager's certificate pursuant to this chapter.

(k) "Registrant" means any person registered or who has applied for registration under this chapter.

(*l*) "Branch office" means any location, other than the principal place of business of the licensee, which is licensed as set forth in Article 11 (commencing with Section 7599.20).

(m) "Branch office manager" means an individual designated by the qualified manager to manage the licensee's branch office and who has met the requirements as set forth in Article 11 (commencing with Section 7599.20).

(n) "Alarm system" means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond.

(o) "Alarm agent" means a person employed by an alarm company operator whose duties include selling on premises, altering, installing, maintaining, moving, repairing, replacing, servicing, responding, or monitoring an alarm system, or a person who manages or supervises a person employed by an alarm company to perform any of the duties described in this subdivision or any person in training for any of the duties described in this subdivision.

(p) "Deadly weapon" means and includes any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles; any dirk, dagger, pistol, revolver, or any other firearm; any knife having a blade longer than five inches; any razor with an unguarded blade; or any metal pipe or bar used or intended to be used as a club.

(q) "Firearms permit" means a permit issued by the bureau, pursuant to Article 6 (commencing with Section 7596), to a licensee, a qualified manager, or an alarm agent, to carry an exposed firearm while on duty.

(r) (1) "Advertisement" means:

(A) Any written or printed communication for the purpose of soliciting, describing, or promoting the licensed business of the licensee, including a brochure, letter, pamphlet, newspaper, periodical, publication, or other writing.

(B) A directory listing caused or permitted by the licensee which indicates his or her licensed activity.

(C) A radio, television, or similar airwave transmission which solicits or promotes the licensed business of the licensee.

(2) "Advertisement" does not include any of the following:

(A) Any printing or writing used on buildings, vehicles, uniforms, badges, or other property where the purpose of the printing or writing is identification.

(B) Any printing or writing on communications, memoranda, or any other writings used in the ordinary course of business where the sole purpose of the writing is other than the solicitation or promotion of business.

(C) Any printing or writing on novelty objects used in the promotion of the licensee's business where the printing of the information required by this chapter would be impractical due to the available area or surface.

(s) "Residential sales agreement" means and includes an agreement between an alarm company operator and an owner or tenant for the purchase of an alarm system to be utilized in the personal residence of the owner or tenant.

(t) "Firearm permit" means and includes "firearms permit," "firearms qualification card," "firearms qualification," and "firearms qualification permit."

SEC. 14. Section 8504 of the Business and Professions Code is amended to read:

8504. "Person" includes an individual, firm, partnership, corporation, limited liability company, association or other organization or any combination thereof.

SEC. 15. Section 9801 of the Business and Professions Code is amended to read:

9801. The following terms as used in this chapter have the meaning expressed in this section:

(a) "Person" includes firm, partnership, association, limited liability company, or corporation.

(b) "Department" means the Department of Consumer Affairs.

(c) "Director" means the Director of Consumer Affairs.

(d) "Bureau" means the Bureau of Electronic and Appliance Repair.

(e) "Chief" means the Chief of the Bureau of Electronic and Appliance Repair.

(f) "Service dealer" means a person who, for compensation, engages in, or holds himself or herself out to the public as offering services in, the business of:

(1) Repairing, servicing, or maintaining an electronic set normally used or sold for personal, family, household, or home office use.

(2) Installing, repairing, servicing, or maintaining equipment or a burglar alarm system for use in private motor vehicles.

(3) Installing, repairing, servicing, or maintaining television or radio receiver antennas, rotators, and accessories or direct satellite signal receiving equipment located on or adjacent to a residence and

not involving a function which is subject to and regulated under the provisions of Chapter 9 (commencing with Section 7000).

(4) Repairing, servicing, or maintaining major appliances.

(g) "Equipment" for the purposes of this chapter means an electronic set, appliance, antenna, rotator, and accessories.

(h) "Electronic set" includes, but is not limited to, any television, radio, audio or video recorder or playback equipment, video camera, video game, video monitor, computer system, photocopier, facsimile machine, or cellular telephone normally used or sold for personal, family, household, or home office use.

(i) "Appliance" or "major home appliance" includes, but is not limited to, any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, trash compactor, or room air conditioner normally used or sold for personal, family, household, or home office use, or for use in private motor vehicles.

(j) "Antenna" includes, but is not limited to, a resonant device designed especially for the purpose of capturing electromagnetic energy transmitted by direct satellite or commercial radio or television broadcasting facilities. An antenna, and its associated accessories, is not deemed to be a part of a set, and shall be considered, under this section, to be located outside or in the attic of a residence.

(k) "Rotator," when used in connection with an antenna installation or repair, includes, but is not limited to, an electromechanical device operated from a remote location to rotate an antenna on a horizontal plane. A rotator and its associated accessories is not deemed to be a part of a set and shall be considered under this section, with the exception of the directional control unit, to be located outside or in the attic of a residence.

(*l*) "Accessories," when used in connection with an antenna or rotator installation or repair, includes, but is not limited to, masts, towers, clamps, guy wires, eye hooks, standoff insulators, roof saddles, vent pipe mounts, chimney mount kits, signal amplifiers/boosters, multiset couplers, transmission lines, control cables, directional control units, and other devices as may be used from time to time to effect installation or repair.

(m) "Computer system" includes, but is not limited to, a central processing unit which performs data manipulation functions, and any associated peripheral devices, including, but not limited to, keyboards, display terminals, printers, or disk drives.

(n) "Video game" includes, but is not limited to, any electronic amusement device which utilizes a computer, microprocessor, or similar electronic circuitry and its own cathode ray tube or a television set or a monitor.

(o) "Direct satellite signal receiving equipment" includes, but is not limited to, receivers, down converters, amplifiers, and audio or video processors related to the reception of audio, video, or data signals broadcasted or rebroadcasted by communication satellites located in space.

(p) "Electronic repair industry" means those activities defined in paragraph (1), (2), or (3) of subdivision (f).

(q) "Appliance repair industry" means those activities defined in paragraph (4) of subdivision (f).

SEC. 16. Section 9880.1 of the Business and Professions Code is amended to read:

9880.1. The following terms as used in this chapter have the meaning expressed in this section.

(a) "Automotive repair dealer" means a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.

(b) "Chief" means the Chief of the Bureau of Automotive Repair.

(c) "Bureau" means the Bureau of Automotive Repair.

(d) "Motor vehicle" means a passenger vehicle required to be registered with the Department of Motor Vehicles and all motorcycles whether or not required to be registered by the Department of Motor Vehicles.

(e) "Repair of motor vehicles" means all maintenance of and repairs to motor vehicles performed by an automotive repair dealer including automotive body repair work, but excluding those repairs made pursuant to a commercial business agreement and also excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the director, by regulation, determines are customarily performed by gasoline service stations.

No service shall be designated as minor, for purposes of this section, if the director finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.

(f) "Person" includes firm, partnership, association, limited liability company, or corporation.

(g) A "mechanic" is an employee of an automotive repair dealer or is that dealer, if the employer or dealer repairs motor vehicles and who for salary or wage performs maintenance, repair, removal, or installation of any integral component parts of an engine, driveline, chassis or body of any vehicle, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories; cleaning, replacing fan belts, oil and air filters; and other minor services which the director, by regulation, determines are customarily performed by a gasoline service station.

(h) "Director" means the Director of Consumer Affairs.

(i) "Commercial business agreement" means an agreement, whether in writing or oral, entered into between a business or commercial enterprise and an automobile repair dealer, prior to the repair which is requested being made, which agreement

contemplates a continuing business arrangement under which the automobile repair dealer is to repair any vehicle covered by the agreement, but does not mean any warranty or extended service agreement normally given by an automobile repair facility to its customers.

SEC. 17. Section 9891.1 of the Business and Professions Code is amended to read:

9891.1. For the purposes of this chapter, the following words have the following meanings:

(a) (1) Except as otherwise provided in paragraph (2), "tax preparer" includes:

(A) Any person who, for a fee, assists with or prepares tax returns for another person or who assumes final responsibility for completed work on a return on which preliminary work has been done by another person, or who holds himself or herself out as offering those services. Each person engaged in that activity shall be deemed to be a separate person for the purposes of this chapter, irrespective of affiliation with or employment by another tax preparer.

(B) Any corporation, partnership, association, or other entity which has associated with it persons not exempted from this chapter under Section 9891.2, which persons shall have as part of their responsibilities the preparation of data and ultimate signatory authority on tax returns or which holds itself out as offering those services or having that authority.

(2) Notwithstanding paragraph (1), "tax preparer" does not include an employee who, as part of the regular clerical duties of his or her employment, prepares his or her employer's income, sales, or payroll tax returns.

(b) "Administrator" means the official appointed by the Governor to head the program.

(c) "Director" means the Director of the Department of Consumer Affairs.

(d) "Fee" means any money or valuable consideration paid or promised to be paid for services rendered or promised to be rendered by any tax preparer.

(e) "Person" includes an individual, firm, partnership, association, joint venture, corporation, limited liability company, or any combination thereof.

(f) "Program" includes all procedures, regulations, and activities authorized by or associated with this chapter.

(g) "Registrant" includes any tax preparer not specifically exempted by Section 9891.2, and those persons otherwise entitled to exemption under Section 9891.2 who have voluntarily expressed desire to be registered under the program.

(h) "Tax return" means any return, declaration, statement, refund claim or other document required to be made or filed in connection with state or federal income taxes or state bank and corporation franchise taxes.

SEC. 18. Section 9998.1 of the Business and Professions Code is

amended to read:

9998.1. The following definitions are applicable to this chapter:

(a) "Person" includes any natural person, company, firm, partnership, or joint venture, association, corporation, limited liability company, or sole proprietorship.

(b) "Compensation" means all forms of remuneration or consideration for the provision of employment services to foreign workers by a foreign labor contractor.

(c) "Employment services" includes, but is not limited to, procuring employment, marketing labor, or otherwise arranging the employment or transportation, housing, and other living accommodations for foreign workers either on behalf of those workers or on behalf of another party.

(d) "Foreign worker" means any person seeking employment who is not a United States citizen but who is authorized by the federal government to work in the United States, including a person who engages in temporary nonagricultural labor pursuant to Section 1101(a)(15)(H)(ii)(b) of Title 8 of the federal Immigration and Nationality Act.

(e) "Foreign labor contractor" means any person who for compensation agrees to assist in securing or who actually secures for or provides employment services to foreign workers.

SEC. 19. Section 14001 of the Business and Professions Code is amended to read:

14001. As used in this division, "person" means any person, association, organization, partnership, business trust, limited liability company, or corporation.

SEC. 20. Section 14204 of the Business and Professions Code is amended to read:

14204. "Person" means any individual, firm, partnership, corporation, limited liability company, union, association, entity, or other organization.

SEC. 21. Section 18402 of the Business and Professions Code is amended to read:

18402. As used in this chapter:

(a) "Person" means any individual, firm, corporation, partnership, limited liability company, association, trustee, receiver or assignee for the benefit of creditors.

(b) "Sell," "sold," "buy," and "purchase" include exchange, barter, gift, and offer of contract to sell or buy.

(c) "Manufacturer" means (i) any person who is engaged, directly or indirectly, in the manufacture of motor vehicles, and (ii) any other person directly or indirectly owned by him who is engaged in the sale or distribution of motor vehicles or any interest therein at wholesale.

(d) "Retailer" means any person who is engaged or who intends to engage in the business of selling motor vehicles at retail in this state.

(e) "Lender" means any person other than an automobile dealer

or automobile distributor who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail within this state.

SEC. 22. Section 18824 of the Business and Professions Code is amended to read:

18824. Except as provided in Section 18646 and Section 18832, every person who conducts a contest or wrestling exhibition shall, within 72 hours after the determination of every contest or wrestling exhibition for which admission is charged and received, furnish to the commission a written report executed under penalty of perjury by one of the officers, showing the number of tickets issued or sold for the contest or wrestling exhibition, the amount of the gross receipts or value thereof, and the gross price charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of the contest or wrestling exhibition, and without any deductions, except for expenses incurred for one broadcast announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross taxable base when those expenses are approved by the commission. The person shall also, within the same time, pay to the commission a 5-percent fee, exclusive of any federal taxes paid thereon, of the amount paid for admission to the contest or wrestling exhibition, and of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall the fee be less than one thousand dollars ($1,000). The minimum fee for an amateur contest or exhibition shall not be less than five hundred dollars ($500). The amount of the gross receipts upon which the fee provided for in this section is calculated shall not include any assessments levied by the commission under Section 18711.

The fee on admission shall apply to the amount actually paid for admission and not to the regular established price.

No fee is due in the case of a person admitted free of charge; provided, however, if the total number of persons admitted free of charge to a boxing, kickboxing, or martial arts contest or wrestling exhibition exceeds 25 percent of the total number of spectators, then a fee of one dollar ($1) per complimentary ticket or pass used to gain admission to the contest shall be paid to the commission for each complimentary ticket or pass that exceeds the numerical total of 25 percent of the total number of spectators.

As used in this section, "person" includes a promoter, club, individual, corporation, partnership, limited liability company, association or other organization, and "wrestling exhibition" means a performance of wrestling skills and techniques by two or more individuals, to which admission is charged or which is broadcast or televised, in which the participating individuals are not required to use their best efforts in order to win, and for which the winner may have been selected before the performance commences.

SEC. 23. Section 18830 of the Business and Professions Code is amended to read:

18830. As used in this article:

(a) "Person" includes a promoter, club, individual, corporation, partnership, limited liability company, association or other organization.

(b) "Closed circuit telecast" includes any telecast or broadcast, transmitted by any means, including subscription where an extra or additional fee is charged where an identifiable or particular fee is charged for the viewing within this state of a simultaneous telecast of any live, current, or spontaneous match or wrestling exhibition.

SEC. 24. Section 19413 of the Business and Professions Code is amended to read:

19413. "Person" includes any individual, partnership, corporation, limited liability company, or other association or organization.

SEC. 25. Section 20008 of the Business and Professions Code is amended to read:

20008. "Person" means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust or an unincorporated organization.

SEC. 26. Section 21500 of the Business and Professions Code is amended to read:

21500. As used in this article:

(a) "Person" means an individual, firm, partnership, association, limited liability company, or corporation engaged in the business of selling watches.

(b) "Consumer" means an individual, firm, partnership, association or corporation who buys for his or her own use, or for the use of another, but not for resale.

SEC. 27. Section 22104 of the Business and Professions Code is amended to read:

22104. "Person" includes a firm, partnership, association, limited liability company, and corporation.

SEC. 28. Section 51.5 of the Civil Code is amended to read:

51.5. No business establishment of any kind whatsoever shall discriminate against, boycott or blacklist, refuse to buy from, sell to, or trade with any person in this state because of the race, creed, religion, color, national origin, sex, or disability of the person or of the person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers, or customers.

As used in this section "person" includes any person, firm, association, organization, partnership, business trust, corporation, limited liability company, or company.

Nothing in this section shall be construed to require any construction, alternation, repair, structural or otherwise, or modification of any sort whatsoever to any new or existing

establishment, facility, building, improvement, or any other structure, or to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other provisions of the law.

SEC. 29. Section 81 of the Civil Code is amended to read:

81. As used in this part:

(a) "Person" means a natural person, partnership, joint venture, corporation, limited liability company, or other entity.

(b) "Dealership" means a contract or agreement, either express or implied, whether oral or written, between two or more persons, by which a person is granted the right to sell or distribute goods or services, or to use a trade name, trademark, service mark, logotype, or advertising or other commercial symbol, in which there is a community of interest in the business of offering, selling, or distributing goods or services at wholesale, or at retail, by lease, agreement, or otherwise.

(c) "Grantor" means a person who sells, leases, or otherwise transfers a dealership.

(d) "Community of interest" means a continuing financial interest between the grantor and grantee in either the operation of the dealership or the marketing of goods or services.

(e) "Dealer" means a person who is a grantee of a dealership situated in this state.

(f) "Grant" means a sale, lease, or transfer of any kind.

SEC. 30. Section 987 of the Civil Code is amended to read:

987. (a) The Legislature hereby finds and declares that the physical alteration or destruction of fine art, which is an expression of the artist's personality, is detrimental to the artist's reputation, and artists therefore have an interest in protecting their works of fine art against any alteration or destruction; and that there is also a public interest in preserving the integrity of cultural and artistic creations.

(b) As used in this section:

(1) "Artist" means the individual or individuals who create a work of fine art.

(2) "Fine art" means an original painting, sculpture, or drawing, or an original work of art in glass, of recognized quality, but shall not include work prepared under contract for commercial use by its purchaser.

(3) "Person" means an individual, partnership, corporation, limited liability company, association or other group, however organized.

(4) "Frame" means to prepare, or cause to be prepared, a work of fine art for display in a manner customarily considered to be appropriate for a work of fine art in the particular medium.

(5) "Restore" means to return, or cause to be returned, a deteriorated or damaged work of fine art as nearly as is feasible to its original state or condition, in accordance with prevailing standards.

(6) "Conserve" means to preserve, or cause to be preserved, a work of fine art by retarding or preventing deterioration or damage through appropriate treatment in accordance with prevailing standards in order to maintain the structural integrity to the fullest extent possible in an unchanging state.

(7) "Commercial use" means fine art created under a work-for-hire arrangement for use in advertising, magazines, newspapers, or other print and electronic media.

(c) (1) No person, except an artist who owns and possesses a work of fine art which the artist has created, shall intentionally commit, or authorize the intentional commission of, any physical defacement, mutilation, alteration, or destruction of a work of fine art.

(2) In addition to the prohibitions contained in paragraph (1), no person who frames, conserves, or restores a work of fine art shall commit, or authorize the commission of, any physical defacement, mutilation, alteration, or destruction of a work of fine art by any act constituting gross negligence. For purposes of this section, the term "gross negligence" shall mean the exercise of so slight a degree of care as to justify the belief that there was an indifference to the particular work of fine art.

(d) The artist shall retain at all times the right to claim authorship, or, for a just and valid reason, to disclaim authorship of his or her work of fine art.

(e) To effectuate the rights created by this section, the artist may commence an action to recover or obtain any of the following:

(1) Injunctive relief.

(2) Actual damages.

(3) Punitive damages. In the event that punitive damages are awarded, the court shall, in its discretion, select an organization or organizations engaged in charitable or educational activities involving the fine arts in California to receive any punitive damages.

(4) Reasonable attorneys' and expert witness fees.

(5) Any other relief which the court deems proper.

(f) In determining whether a work of fine art is of recognized quality, the trier of fact shall rely on the opinions of artists, art dealers, collectors of fine art, curators of art museums, and other persons involved with the creation or marketing of fine art.

(g) The rights and duties created under this section:

(1) Shall, with respect to the artist, or if any artist is deceased, his or her heir, beneficiary, devisee, or personal representative, exist until the 50th anniversary of the death of the artist.

(2) Shall exist in addition to any other rights and duties which may now or in the future be applicable.

(3) Except as provided in paragraph (1) of subdivision (h), may not be waived except by an instrument in writing expressly so providing which is signed by the artist.

(h) (1) If a work of fine art cannot be removed from a building without substantial physical defacement, mutilation, alteration, or destruction of the work, the rights and duties created under this

section, unless expressly reserved by an instrument in writing signed by the owner of the building, containing a legal description of the property and properly recorded, shall be deemed waived. The instrument, if properly recorded, shall be binding on subsequent owners of the building.

(2) If the owner of a building wishes to remove a work of fine art which is a part of the building but which can be removed from the building without substantial harm to the fine art, and in the course of or after removal, the owner intends to cause or allow the fine art to suffer physical defacement, mutilation, alteration, or destruction, the rights and duties created under this section shall apply unless the owner has diligently attempted without success to notify the artist, or, if the artist is deceased, his or her heir, beneficiary, devisee, or personal representative, in writing of his or her intended action affecting the work of fine art, or unless he or she did provide notice and that person failed within 90 days either to remove the work or to pay for its removal. If the work is removed at the expense of the artist, his or her heir, beneficiary, devisee, or personal representative, title to the fine art shall pass to that person.

(3) If a work of fine art can be removed from a building scheduled for demolition without substantial physical defacement, mutilation, alteration, or destruction of the work, and the owner of the building has notified the owner of the work of fine art of the scheduled demolition or the owner of the building is the owner of the work of fine art, and the owner of the work of fine art elects not to remove the work of fine art, the rights and duties created under this section shall apply, unless the owner of the building has diligently attempted without success to notify the artist, or, if the artist is deceased, his or her heir, beneficiary, devisee, or personal representative, in writing of the intended action affecting the work of fine art, or unless he or she did provide notice and that person failed within 90 days either to remove the work or to pay for its removal. If the work is removed at the expense of the artist, his or her heir, beneficiary, devisee, or personal representative, title to the fine art shall pass to that person.

(4) Nothing in this subdivision shall affect the rights of authorship created in subdivision (d) of this section.

(i) No action may be maintained to enforce any liability under this section unless brought within three years of the act complained of or one year after discovery of the act, whichever is longer.

(j) This section shall become operative on January 1, 1980, and shall apply to claims based on proscribed acts occurring on or after that date to works of fine art whenever created.

(k) If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, the invalidity shall not affect any other provisions or applications of this section which can be effected without the invalid provision or application, and to this end the provisions of this section are severable.

SEC. 31. Section 1738 of the Civil Code is amended to read:

1738. As used in this title:

(a) "Artist" means the person who creates a work of fine art or, if that person is deceased, that person's heir, legatee, or personal representative.

(b) "Fine art" means a painting, sculpture, drawing, work of graphic art (including an etching, lithograph, offset print, silk screen, or a work of graphic art of like nature), a work of calligraphy, or a work in mixed media (including a collage, assemblage, or any combination of the foregoing art media).

(c) "Art dealer" means a person engaged in the business of selling works of fine art, other than a person exclusively engaged in the business of selling goods at public auction.

(d) "Person" means an individual, partnership, corporation, limited liability company, association or other group, however organized.

(e) "Consignment" means that no title to, estate in, or right to possession of, fine art, superior to that of the consignor shall vest in the consignee, notwithstanding the consignee's power or authority to transfer and convey to a third person all of the right, title and interest of the consignor in and to such fine art.

SEC. 32. Section 1739.7 of the Civil Code is amended to read:

1739.7. (a) As used in this section:

(1) "Autographed" means bearing the actual signature of a sports personality signed by that individual's own hand.

(2) "Collectible" means an autographed sports item, including, but not limited to, a photograph, book, ticket, plaque, sports program, trading card, item of sports equipment or clothing, or other sports memorabilia sold or offered for sale in or from this state by a dealer to a consumer for fifty dollars ($50) or more.

(3) "Consumer" means any natural person who purchases a collectible from a dealer for personal, family, or household purposes. "Consumer" also includes a prospective purchaser meeting these criteria.

(4) "Dealer" means a person who is in the business of selling or offering for sale collectibles in or from this state, exclusively or nonexclusively, or a person who by his or her occupation holds himself or herself out as having knowledge or skill peculiar to collectibles, or to whom that knowledge or skill may be attributed by his or her employment of an agent or other intermediary that by his or her occupation holds himself or herself out as having that knowledge or skill. "Dealer" includes an auctioneer who sells collectibles at a public auction, and also includes persons who are consignors or representatives or agents of auctioneers.

(5) "Description" means any of the following:

(A) Any representation in writing, including, but not limited to, a representation in an advertisement, invoice, catalog, flyer, sign, brochure, or other commercial or promotional material.

(B) Any oral representation.

(C) Any representation included in a radio or television broadcast to the public in or from this state.

(6) "Person" means any natural person, partnership, corporation, limited liability company, company, trust, association, or other entity, however organized.

(b) Whenever a dealer, in selling or offering to sell to a consumer a collectible in or from this state, provides a description of that collectible as being autographed, the dealer shall furnish a certificate of authenticity to the consumer at the time of sale. The certificate of authenticity shall be in writing and shall be signed by the dealer or his or her authorized agent. The certificate of authenticity shall be in at least 10-point boldface type and shall contain the dealer's true legal name and street address. Each certificate of authenticity shall do all of the following:

(1) Describe the collectible and specify the name of the sports personality who autographed it.

(2) Either specify the purchase price and date of sale or be accompanied by a separate invoice setting forth that information.

(3) Contain an express warranty, which shall be conclusively presumed to be part of the bargain, of the authenticity of the collectible. This warranty shall not be negated or limited by reason of the lack of words such as "warranty" or "guarantee" or because the dealer does not have a specific intent or authorization to make the warranty or because any statement relevant to the collectible is or purports to be, or is capable of being, merely the dealer's opinion.

(4) Specify if the collectible is offered as one of a limited edition and, if so, shall specify (A) how the collectible and edition are numbered and (B) the size of the edition and the size of any prior or anticipated future edition, if known, or if not known, the certificate shall contain an explicit statement to that effect.

(c) No dealer shall represent an item as a collectible if it was not autographed by the sports personality in his or her own hand.

(d) No dealer shall display or offer for sale a collectible in this state, unless at the location where the collectible is offered for sale, and in close proximity to the collectible merchandise, there is a conspicuous sign that reads as follows:

"SALE OF AUTOGRAPHED SPORTS MEMORABILIA

AS REQUIRED BY LAW, A DEALER WHO SELLS TO A CONSUMER ANY SPORTS MEMORABILIA DESCRIBED AS BEING AUTOGRAPHED FOR FIFTY DOLLARS ($50) OR MORE MUST PROVIDE A WRITTEN CERTIFICATE OF AUTHENTICITY AT THE TIME OF SALE."

(e) Any dealer engaged in a mail-order or telephone-order business for the sale of collectibles in or from this state:

(1) Shall include the disclosure specified in paragraph (d), in type of conspicuous size, in any written advertisement relating to a collectible.

(2) Shall include in each television advertisement relating to a

collectible the following written on-screen message, which shall be prominently displayed, shall be easily readable, and shall be clearly visible for no less than five seconds and shall be repeated for five seconds once during each four-minute segment of the advertisement following the initial four minutes:

"A written certificate of authenticity is provided with each autographed collectible, as required by law."

(3) Shall include as part of the oral message of each radio advertisement for a collectible the disclosure specified in subdivision (d).

(f) No dealer shall display or offer for sale a collectible in this state at any trade show or similar event primarily featuring sales of collectibles or other sports memorabilia which offers onsite admission ticket sales, unless at each onsite location where admission tickets are sold, there is prominently displayed a specimen example of a certificate of authenticity.

(g) Any consumer injured by the failure of a dealer to provide a certificate of authenticity containing the information required by this section, or by a dealer's furnishing of a certificate of authenticity that is false, shall be entitled to recover, in addition to actual damages, a civil penalty in an amount equal to three times actual damages, plus court costs and reasonable attorney's fees incurred by the consumer in the action. The remedy specified in this section is in addition to, and not in lieu of, any other remedy that may be provided by law.

SEC. 33. Section 1740 of the Civil Code is amended to read:

1740. As used in this title:

(a) "Fine art multiple" or "multiple" for the purposes of this title means any fine print, photograph (positive or negative), sculpture cast, collage, or similar art object produced in more than one copy. Pages or sheets taken from books and magazines and offered for sale or sold as art objects shall be included, but books and magazines shall be excluded.

(b) "Fine print" or "print" means a multiple produced by, but not limited to, engraving, etching, woodcutting, lithography, and serigraphy, and means multiples produced or developed from photographic negatives, or any combination thereof.

(c) "Master" is used in lieu of and has the same meaning as a printing plate, stone, block, screen, photographic negative, or mold or other process as to a sculpture, which contains an image used to produce fine art objects in multiples.

(d) "Artist" means the person who created the image which is contained in, or constitutes, the master or conceived of, and approved the image which is contained in, or constitutes, the master.

(e) Whether a multiple is "signed" or "unsigned" as these terms are used in this title relating to prints and photographs, depends upon whether or not the multiple was autographed by the artist's

own hand, and not by mechanical means, after the multiple was produced, irrespective of whether it was signed or unsigned in the plate.

(f) "Impression" means each individual fine art multiple made by printing, stamping, casting, or any other process.

(g) "Art dealer" means a person who is in the business of dealing, exclusively or nonexclusively, in the fine art multiples to which this title is applicable, or a person who by his or her occupation holds himself or herself out as having knowledge or skill peculiar to these works, or to whom that knowledge or skill may be attributed by his or her employment of an agent or other intermediary who by his or her occupation holds himself or herself out as having that knowledge or skill. The term "art dealer" includes an auctioneer who sells these works at public auction, but excludes persons, not otherwise defined or treated as art dealers herein, who are consignors or principals of auctioneers.

(h) "Limited edition" means fine art multiples produced from a master, all of which are the same image and bear numbers or other markings to denote the limited production thereof to a stated maximum number of multiples, or are otherwise held out as limited to a maximum number of multiples.

(i) "Proofs" means multiples which are the same as, and which are produced from the same master as, the multiples in a limited edition, but which, whether so designated or not, are set aside from and are in addition to the limited edition to which they relate.

(j) "Certificate of authenticity" means a written or printed description of the multiple which is to be sold, exchanged, or consigned by an art dealer. Every certificate shall contain the following statement:

"This is to certify that all information and the statements contained herein are true and correct."

(k) "Person" means an individual, partnership, corporation, limited liability company, association, or other entity, however organized.

SEC. 34. Section 1761 of the Civil Code is amended to read:

1761. As used in this title:

(a) "Goods" means tangible chattels bought or leased for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for these goods, and including goods which, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of real property, whether or not severable therefrom.

(b) "Services" means work, labor, and services for other than a commercial or business use, including services furnished in connection with the sale or repair of goods.

(c) "Person" means an individual, partnership, corporation, limited liability company, association, or other group, however organized.

(d) "Consumer" means an individual who seeks or acquires, by

purchase or lease, any goods or services for personal, family, or household purposes.

(e) "Transaction" means an agreement between a consumer and any other person, whether or not the agreement is a contract enforceable by action, and includes the making of, and the performance pursuant to, that agreement.

(f) "Senior citizen" means a person who is 65 years of age or older.

(g) "Disabled person" means any person who has a physical or mental impairment which substantially limits one or more major life activities.

(1) As used in this subdivision, "physical or mental impairment" means any of the following:

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; muscoloskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(B) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

SEC. 35. Section 1785.3 of the Civil Code is amended to read:

1785.3. The following terms as used in this title have the meaning expressed in this section:

(a) "Adverse action" means a denial or revocation of credit, a change in the terms of an existing credit arrangement which is adverse to the interests of the consumer, or a refusal to grant credit in substantially the amount or on substantially the terms requested. "Adverse action" includes all of the following:

(1) Any denial of, increase in any charge for, or reduction in the amount of, insurance for personal, family, or household purposes made in connection with the underwriting of insurance.

(2) Any denial of employment or any other decision made for employment purposes which adversely affects any current or prospective employee.

(3) Any action taken, or determination made, with respect to a consumer (A) for an application for an extension of credit, or an application for the hiring of a dwelling unit, and (B) that is adverse to the interests of the consumer.

"Adverse action" does not include (A) a refusal to extend additional credit to a consumer under an existing credit arrangement

if (i) the applicant is delinquent or otherwise in default under that credit arrangement or (ii) the additional credit would exceed a credit limit previously established for the consumer or (B) a refusal or failure to authorize an account transaction at a point of sale.

(b) "Consumer" means a natural individual.

(c) "Consumer credit report" means any written, oral, or other communication of any information by a consumer credit reporting agency bearing on a consumer's creditworthiness, credit standing, or credit capacity, which is used or is expected to be used, or collected in whole or in part, for the purpose of serving as a factor in establishing the consumer's eligibility for: (1) credit to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) hiring of a dwelling unit, as defined in subdivision (c) of Section 1940, or (4) other purposes authorized in Section 1785.11.

The term does not include (1) any report containing information solely as to transactions or experiences between the consumer and the person making the report, (2) any communication of that information or information from a credit application by a consumer that is internal within the organization that is the person making the report or that is made to an entity owned by, or affiliated by corporate control with, that person; provided that the consumer is informed by means of a clear and conspicuous written disclosure that information contained in the credit application may be provided to these persons; however, where a credit application is taken by telephone, disclosure shall initially be given orally at the time the application is taken, and a clear and conspicuous written disclosure shall be made to the consumer in the first written communication to that consumer after the application is taken, (3) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device, (4) any report by a person conveying a decision whether to make a specific extension of credit directly or indirectly to a consumer in response to a request by a third party, if the third party advises the consumer of the name and address of the person to whom the request was made and the person makes the disclosures to the consumer required under Section 1785.20, (5) any report containing information solely on a consumer's character, general reputation, personal characteristics, or mode of living which is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on, or others with whom he or she is acquainted or who may have knowledge concerning those items of information, (6) any communication about a consumer in connection with a credit transaction which is not initiated by the consumer, between persons who are affiliated (as defined in Section 150 of the Corporations Code) by common ownership or common corporate control (as defined by Section 160 of the Corporations Code), if either of those persons has complied with paragraph (2) of subdivision (b) of Section 1785.20.1 with respect to a prequalifying report from which the information

communicated is taken and provided the consumer has consented to the provision and use of the prequalifying report in writing, (7) any consumer credit report furnished for use in connection with a transaction which consists of an extension of credit to be used solely for a commercial purpose or (8) any report used solely conveying a decision whether to guarantee a check in response to a request by a third party.

(d) "Consumer credit reporting agency" means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties, but does not include any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes. "Consumer credit reporting agency" also does not include a person solely by reason of conveying a decision whether to guarantee a check in response to a request by a third party.

(e) "Credit transaction that is not initiated by the consumer" does not include the use of a consumer credit report by an assignee for collection or by a person with which the consumer has an account for purposes of (1) reviewing the account or (2) collecting the account. For purposes of this subdivision, "reviewing the account" includes activities related to account maintenance and monitoring, credit line increases, and account upgrades and enhancements.

(f) "Employment purposes," when used in connection with a consumer credit report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

(g) "File," when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer credit reporting agency, regardless of how the information is stored.

(h) "Firm offer of credit" means any offer of credit to a consumer that will be honored if, based on information in a consumer credit report on the consumer and other information bearing on the creditworthiness of the consumer, the consumer is determined to meet the criteria used to select the consumer for the offer and the consumer is able to provide any real property collateral specified in the offer. For purposes of this subdivision, the phrase "other information bearing on the creditworthiness of the consumer" means information that the person making the offer is permitted to consider pursuant to any rule, regulation, or formal written policy statement relating to the federal Fair Credit Reporting Act, as amended (15 U.S.C. Sec. 1681 et seq.), promulgated by the Federal Trade Commission or any federal bank regulatory agency.

(i) "Item of information" means any of one or more informative entries in a credit report which causes a creditor to deny credit to an applicant or increase the cost of credit to an applicant or deny an

applicant a checking account with a bank or other financial institution.

(j) "Person" means any individual, partnership, corporation, limited liability company, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(k) "Prequalifying report" means a report containing the limited information permitted under paragraph (2) of subdivision (b) of Section 1785.11.

(*l*) "State or local child support enforcement agency" means the district attorney acting pursuant to Section 11475.1 of the Welfare and Institutions Code to establish or enforce child support obligations, and any state or local agency or official that succeeds to these responsibilities under a successor statute.

SEC. 36. Section 1786.2 of the Civil Code is amended to read:

1786.2. The following terms as used in this title have the meaning expressed in this section:

(a) The term "person" means any individual, partnership, corporation, limited liability company, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity. The term "person" as used in this title shall not be construed to require duplicative reporting by any individual, corporation, trust, estate, cooperative, association, government, or governmental subdivision or agency, or other entity involved in the same transaction.

(b) The term "consumer" means a natural individual who has made application to a person for employment purposes, for insurance for personal, family, or household purposes, or the hiring of a dwelling unit, as defined in subdivision (c) of Section 1940.

(c) The term "investigative consumer report" means a consumer report in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on, or others with whom he or she is acquainted or who may have knowledge concerning any of these items of information. The term does not include a consumer report or other compilation of information which is limited to specific factual information relating to a consumer's credit record or manner of obtaining credit obtained directly from a creditor of the consumer or from a consumer reporting agency when that information was obtained directly from a potential or existing creditor of the consumer or from the consumer.

(d) The term "investigative consumer reporting agency" means any person who, for monetary fees or dues, regularly engages in whole or in part in the practice of assembling or evaluating employment or insurance information, or information relating to the hiring of dwelling units, or any combination thereof, concerning consumers for personal, family, or household purposes, for the purposes of furnishing investigative consumer reports to third parties, to be used with respect to consumers for employment

purposes or, insurance primarily for personal, family, or household purposes, or for purposes relating to the hiring of dwelling units, but does not include any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes, or a private investigator licensed in this state or employees of a private investigator and does not include any licensed insurance agent, insurance broker, or solicitor, insurer, or life insurance agent.

(e) The term "file" when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by an investigative consumer reporting agency regardless of how the information is stored.

(f) The term "employment purposes", when used in connection with an investigative consumer report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

(g) The term "medical information" means information on a person's medical history or condition obtained directly or indirectly from a licensed physician, medical practitioner, hospital, clinic, or other medical or medically related facility.

SEC. 37. Section 1788.2 of the Civil Code is amended to read:

1788.2. (a) Definitions and rules of construction set forth in this section are applicable for the purpose of this title.

(b) The term "debt collection" means any act or practice in connection with the collection of consumer debts.

(c) The term "debt collector" means any person who, in the ordinary course of business, regularly, on behalf of himself or herself or others, engages in debt collection. The term includes any person who composes and sells, or offers to compose and sell, forms, letters, and other collection media used or intended to be used for debt collection, but does not include an attorney or counselor at law.

(d) The term "debt" means money, property or their equivalent which is due or owing or alleged to be due or owing from a natural person to another person.

(e) The term "consumer credit transaction" means a transaction between a natural person and another person in which property, services or money is acquired on credit by that natural person from such other person primarily for personal, family, or household purposes.

(f) The terms "consumer debt" and "consumer credit" mean money, property or their equivalent, due or owing or alleged to be due or owing from a natural person by reason of a consumer credit transaction.

(g) The term "person" means a natural person, partnership, corporation, limited liability company, trust, estate, cooperative, association or other similar entity.

(h) The term "debtor" means a natural person from whom a debt collector seeks to collect a consumer debt which is due and owing or alleged to be due and owing from such person.

(i) The term "creditor" means a person who extends consumer

credit to a debtor.

(j) The term "consumer credit report" means any written, oral or other communication of any information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for person, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under any applicable federal or state law or regulation. The term does not include (a) any report containing information solely as to transactions or experiences between the consumer and the person making the report; (b) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or (c) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to that request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under any applicable federal or state law or regulation.

(k) The term "consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer credit reports to third parties, and which uses any means or facility for the purpose of preparing or furnishing consumer credit reports.

SEC. 38. Section 1789.12 of the Civil Code is amended to read:

1789.12. As used in this title:

(a) "Credit services organization" means a person who, with respect to the extension of credit by others, sells, provides, or performs, or represents that he or she can or will sell, provide or perform, any of the following services, in return for the payment of money or other valuable consideration:

(1) Improving a buyer's credit record, history, or rating.

(2) Obtaining a loan or other extension of credit for a buyer.

(3) Providing advice or assistance to a buyer with regard to either paragraph (1) or (2).

"Credit services organization" does not include any of the following:

(1) Any person organized, chartered, or holding a license or authorization certificate to make loans or extensions of credit pursuant to the laws of this state or the United States who is subject to regulation and supervision by an official or agency of this state or the United States and who is in the business of making those loans or extensions of credit.

(2) Any bank or savings institution specified in subdivision (a) or

(b) of Section 5102 of the Financial Code, whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation.

(3) Any nonprofit organization exempt from taxation under Section 501 (c) (3) of the Internal Revenue Code.

(4) Any person licensed as a prorater by the Department of Corporations when the person is acting within the course and scope of that license.

(5) Any person licensed as a real estate broker performing an act under the Real Estate Law (Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code).

(6) Any attorney licensed to practice law in this state, where the attorney renders services within the course and scope of the practice of law, unless the attorney is an employee of, or otherwise directly affiliated with, a credit services organization.

(7) Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of the regulation.

(b) "Buyer" means any natural person who is solicited to purchase or who purchases the services of a credit services organization.

(c) "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family, or household purposes.

(d) "Consumer credit reporting agency" means a consumer credit reporting agency subject to the Consumer Credit Reporting Agencies Act, Title 1.6 (commencing with Section 1785.1).

(e) "Person" includes an individual, corporation, partnership, limited liability company, joint venture, or any business entity.

SEC. 39. Section 1791 of the Civil Code is amended to read:

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling consumer goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, limited liability company, association, or other legal entity which engages in any such business.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) "Consumables" means any product which is intended for consumption by individuals, or use by individuals for purposes of

personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of consumption or use.

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, which engages in the business of servicing and repairing consumer goods.

(g) "Lease" means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods' depreciation.

(h) "Lessee" means an individual who leases consumer goods under a lease.

(i) "Lessor" means a person who regularly leases consumer goods under a lease.

(j) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, or produces consumer goods.

(k) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for these goods.

(*l*) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling or leasing consumer goods to retail buyers.

(m) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller's place of business, as defined in subdivision (k).

(n) "Sale" means (1) the passing of title from the seller to the buyer for a price, or (2) a consignment for sale.

(o) "Service contract" means a contract in writing to perform, for an additional cost, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) "Service contract administrator" or "administrator" means a person, other than a service contract seller or an insurer admitted to do business in this state, who performs or arranges, or has an affiliate who performs or arranges, the collection, maintenance, or disbursement of moneys to compensate any party for claims or repairs pursuant to a service contract, and who also performs or arranges, or has an affiliate who performs or arranges, any of the

following activities on behalf of service contract sellers:

(1) Providing service contract sellers with service contract forms.

(2) Participating in the adjustment of claims arising from service contracts.

(3) Arranging on behalf of service contract sellers the insurance required by Section 9855.2. A service contract administrator shall not be an obligor on a service contract.

(q) "Service contract seller" or "seller" means a person who sells or offers to sell a service contract to a service contractholder.

(r) "Service contractor" means a service contract administrator or a service contract seller.

(s) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, which is used or intended to be used, to assist a physically disabled person in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of a physically disabled person, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code, and unless they are intended to assist the limited vision of the person so disabled.

(t) "Catalog or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device.

(u) "Home appliance" means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, or room air-conditioner normally used or sold for personal, family, or household purposes.

(v) "Home electronic product" means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars ($50).

This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

SEC. 39.5. Section 1791 of the Civil Code is amended to read:

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold

at retail.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling consumer goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, limited liability company, association, or other legal entity which engages in any of these businesses.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) "Consumables" means any product which is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of consumption or use.

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) "Independent repair or service facility" or "independent service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, which engages in the business of servicing and repairing consumer goods.

(g) "Lease" means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods' depreciation.

(h) "Lessee" means an individual who leases consumer goods under a lease.

(i) "Lessor" means a person who regularly leases consumer goods under a lease.

(j) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, or produces consumer goods.

(k) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for consumer goods.

(*l*) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling or leasing consumer goods to retail buyers.

(m) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller's place of business, as defined in subdivision (k).

(n) "Sale" means (1) the passing of title from the seller to the buyer for a price, or (2) a consignment for sale.

(o) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, which is used or intended to be used, to assist a physically disabled person in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of a physically disabled person, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code and unless they are intended to assist the limited vision of the person so disabled.

(q) "Catalog or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device.

(r) "Home appliance" means any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, or room air-conditioner normally used or sold for personal, family, or household purposes.

(s) "Home electronic product" means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars ($50).

This section shall become operative on January 1, 1998.

SEC. 40. Section 1798.3 of the Civil Code is amended to read:

1798.3. As used in this chapter:

(a) The term "personal information" means any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual.

(b) The term "agency" means every state office, officer, department, division, bureau, board, commission, or other state agency, except that the term agency shall not include:

(1) The California Legislature.

(2) Any agency established under Article VI of the California Constitution.

(3) The State Compensation Insurance Fund, except as to any records which contain personal information about the employees of the State Compensation Insurance Fund.

(4) A local agency, as defined in subdivision (b) of Section 6252 of the Government Code.

(c) The term "disclose" means to disclose, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic or any other means to any person or entity.

(d) The term "individual" means a natural person.

(e) The term "maintain" includes maintain, acquire, use, or disclose.

(f) The term "person" means any natural person, corporation, partnership, limited liability company, firm, or association.

(g) The term "record" means any file or grouping of information about an individual that is maintained by an agency by reference to an identifying particular such as the individual's name, photograph, finger or voice print, or a number or symbol assigned to the individual.

(h) The term "system of records" means one or more records, which pertain to one or more individuals, which is maintained by any agency, from which information is retrieved by the name of an individual or by some identifying number, symbol or other identifying particular assigned to the individual.

(i) The term "governmental entity," except as used in Section 1798.26, means any branch of the federal government or of the local government.

(j) The term "commercial purpose" means any purpose which has financial gain as a major objective. It does not include the gathering or dissemination of newsworthy facts by a publisher or broadcaster.

(k) The term "regulatory agency" means the State Banking Department, the Department of Corporations, the Department of Insurance, the Department of Savings and Loan, the Department of Real Estate, and agencies of the United States or of any other state responsible for regulating financial institutions.

SEC. 41. Section 1799 of the Civil Code is amended to read:

1799. As used in this title:

(a) The term "bookkeeping services" means keeping books, making trial balances, preparing statements, making audits, or preparing reports, all as a part of bookkeeping operations, provided that such trial balances, statements, or reports are not issued over the name of such person as having been prepared or examined by a certified public accountant or public accountant.

(b) The term "business entity" means a sole proprietorship, partnership, corporation, association or other group, however organized and whether or not organized to operate at a profit, but does not mean a financial institution organized, chartered, or holding a license or authorization certificate under a law of this state or the

United States to make loans or extend credit and subject to supervision by an official or agency of this state or the United States, nor the parent of any such financial institution, nor any subsidiary of any such financial institution or parent.

(c) The term "individual" means a natural person.

(d) The term "person" means any natural person, corporation, partnership, limited liability company, firm, association, or governmental entity.

(e) The term "record" means any item, collection, or grouping of information about an individual or business entity.

SEC. 42. Section 1799.101 of the Civil Code is amended to read:

1799.101. (a) For the purposes of this section, the following terms are defined as follows:

(1) "Adverse information" means information directly or indirectly indicating that a delinquency has occurred, because a cosigner has not complied with the contractual provisions of a consumer credit contract.

(2) "Collection action" means requesting a cosigner to pay all or part of the obligation on a consumer credit contract.

(3) "Cosigner" means a natural person, other than the primary obligor or the spouse of the primary obligor, who renders himself or herself liable for the obligation on a consumer credit contract without compensation. The term includes a person whose signature is requested by a creditor as a condition to granting credit to another person. A person who does not receive goods, services, or money in return for executing a consumer credit contract does not receive compensation within the meaning of this section. "Cosigner" does not include a joint applicant for open-end credit pursuant to subdivision (c) of Section 1799.91. A person is a cosigner within the meaning of this section whether or not he or she is designated as such on a consumer credit contract or other document creating the consumer credit contract obligation for the cosigner.

(4) "Delinquency" means a failure to make timely payment to the creditor of all or a portion of any installment under a consumer credit contract.

(5) "Notice" means a writing which describes, recites, or otherwise refers to a delinquency.

(6) "Obligation" means an indebtedness incurred by an individual for personal, family, or household purposes.

(7) "Person" means an individual, firm, partnership, association, limited liability company, or corporation.

(8) "Primary obligor" means one or more persons, other than a cosigner, who sign a consumer credit contract and assume an obligation as debtor under that contract.

(b) Except as provided in subdivisions (d) and (e), no creditor shall provide any adverse information with respect to any cosigner, to a consumer credit reporting agency regarding a delinquency on a consumer credit contract entered into on or after July 1, 1992, unless, at or before the time the information is provided to the

consumer credit reporting agency, written notice of the delinquency is provided to the cosigner.

(c) No creditor shall provide any information regarding the cosigner's obligation on a consumer credit contract to a debt collector, as defined in subdivision (c) of Section 1788.2, until notice has been provided to the cosigner under subdivision (b).

(d) The notice requirements of subdivisions (b) and (c) do not apply to any cosigner whose address, as shown in the creditor's records respecting the consumer credit contract, is the same as the primary obligor.

(e) The notice requirements of subdivisions (b) and (c) shall be satisfied by mailing a copy of the required notice to the cosigner at the cosigner's address, as shown in the creditor's records respecting the consumer credit contract. However, if more than one cosigner reside at the same address, as shown in the creditor's records respecting the consumer credit contract, a notice addressed to any cosigner at that address shall be deemed notice to all the cosigners residing at that address.

(f) Nothing in this section shall require any particular form or language with respect to a notice of delinquency sent to either a primary obligor or cosigner.

(g) Within a reasonable time after a creditor has reported to a credit reporting agency that a delinquency or delinquencies that have been reported to the consumer credit reporting agency and included in the cosigner's file maintained by the consumer credit reporting agency have been cured, the consumer credit reporting agency shall indicate in the file that the payment was made.

(h) Nothing in this section shall be construed to require notice of a delinquency to be provided to a cosigner in any instance not expressly specified in this section, or to provide notice to persons other than cosigners.

(i) This section shall become operative on July 1, 1992.

SEC. 43. Section 1802.15 of the Civil Code is amended to read:

1802.15. "Person" means an individual, partnership, corporation, limited liability company, association or other group, however organized.

SEC. 44. Section 1812.201 of the Civil Code is amended to read:

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

(a) "Seller assisted marketing plan" means any sale or lease or offer to sell or lease any product, equipment, supplies, or services which requires a total initial payment exceeding five hundred dollars ($500), but requires an initial cash payment of less than fifty thousand dollars ($50,000), which will aid a purchaser or will be used by or on behalf of the purchaser in connection with or incidental to beginning, maintaining, or operating a business when the seller assisted marketing plan seller has advertised or in any other manner solicited the purchase or lease of the seller assisted marketing plan and done any of the following acts:

(1) Represented that the purchaser will earn, is likely to earn, or can earn an amount in excess of the initial payment paid by the purchaser for participation in the seller assisted marketing plan.

(2) Represented that there is a market for the product, equipment, supplies, or services, or any product marketed by the user of the product, equipment, supplies, or services sold or leased or offered for sale or lease to the purchaser by the seller, or anything, be it tangible or intangible, made, produced, fabricated, grown, bred, modified, or developed by the purchaser using, in whole or in part, the product, supplies, equipment, or services which were sold or leased or offered for sale or lease to the purchaser by the seller assisted marketing plan seller.

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

(b) A "seller assisted marketing plan" shall not include:

(1) A security as defined in the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) which has been qualified for sale by the Department of Corporations, or is exempt under Chapter 1 (commencing with Section 25100) of Part 2 of Division 1 of Title 4 of the Corporations Code from the necessity to qualify.

(2) A franchise defined by the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) which is registered with the Department of Corporations or is exempt under Chapter 1 (commencing with Section 31100) of Part 2 of Division 5 of Title 4 of the Corporations Code from the necessity of registering.

(3) Any transaction in which either the seller or purchaser or the lessor or lessee is licensed pursuant to and the transaction is governed by the Real Estate Law, Division 4 (commencing with Section 10000) of the Business and Professions Code.

(4) A license granted by a general merchandise retailer which allows the licensee to sell goods, equipment, supplies, products, or services to the general public under the retailer's trademark, trade name, or service mark if all of the following criteria are satisfied:

(A) The general merchandise retailer has been doing business in this state continually for five years prior to the granting of the license.

(B) The general merchandise retailer sells diverse kinds of goods, equipment, supplies, products, or services.

(C) The general merchandise retailer also sells the same goods, equipment, supplies, products, or services directly to the general public.

(D) During the previous 12 months the general merchandise retailer's direct sales of the same goods, equipment, supplies, products, or services to the public account for at least 50 percent of

its yearly sales of these goods, equipment, supplies, products, or services made under the retailer's trademark, trade name, or service mark.

(5) A newspaper distribution system distributing newspapers as defined in Section 6362 of the Revenue and Taxation Code.

(6) A sale or lease to an existing or beginning business enterprise which also sells or leases equipment, products, supplies, or performs services that are not supplied by the seller and that the purchaser does not utilize with the equipment, products, supplies, or services of the seller, if the equipment, products, supplies, or services not supplied by the seller account for more than 25 percent of the purchaser's gross sales.

(7) The sale in the entirety of an "ongoing business." For purposes of this paragraph, an "ongoing business" means a business which for at least six months previous to the sale has been operated from a particular specific location, has been open for business to the general public, and has had all equipment and supplies necessary for operating the business located at that location. The sale shall be of the entire "ongoing business" and not merely a portion of the ongoing business.

(8) A sale or lease or offer to sell or lease to a purchaser (A) who has for a period of at least six months previously bought products, supplies, services, or equipment which were sold under the same trademark or trade name or which were produced by the seller and, (B) who has received on resale of the product, supplies, services, or equipment an amount which is at least equal to the amount of the initial payment.

(9) The renewal or extension of an existing seller assisted marketing plan contract.

(c) "Person" includes an individual, corporation, partnership, limited liability company, joint venture, or any business entity.

(d) "Seller" means a person who sells or leases or offers to sell or lease a seller assisted marketing plan and who meets either of the following conditions:

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

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

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

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

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

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

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

(1) Sell or lease.

(2) Use to perform a service.

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

(4) Provide or attempt to provide to the seller assisted marketing plan seller or to any other person whom the seller suggests the purchaser contact so that the seller assisted marketing plan seller or that other person may assist, either directly or indirectly, the purchaser in distributing, selling, leasing, or otherwise disposing of the product.

(i) "Services" includes any assistance, guidance, direction, work, labor, or services provided by the seller to initiate or maintain or assist in the initiation or maintenance of a business.

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

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

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

(m) "Buy-back" or "secured investment" means any representation which implies in any manner that the purchaser's initial payment is protected from loss. These terms include a representation or implication of any of the following:

(1) That the seller may repurchase either all or part of what it sold to the purchaser.

(2) That the seller may at some future time pay the purchaser the

difference between what has been earned and the initial payment.

(3) That the seller may in the ordinary course buy from the purchaser items made, produced, fabricated, grown, bred, modified, or developed by the purchaser using, in whole or in part, the product, supplies, equipment, or services which were initially sold or leased to the purchaser by the seller.

(4) That the seller or a person to whom the seller will refer the purchaser may in the ordinary course sell, lease, or distribute the items the purchaser has for sale or lease.

SEC. 45. Section 1812.300 of the Civil Code is amended to read:

1812.300. For the purposes of this title:

(a) "Membership camping operator" means any enterprise, other than one that is tax exempt under Section 501 (c) (3) of the Internal Revenue Code of 1954, as amended, that has as one of its purposes the ownership or operation of campgrounds which include or may include use of camping sites, that solicits membership paid for by a fee or periodic payments, such as annual dues, and the contractual members are the primary intended users. "Membership camping operator" does not include camping or recreational trailer parks, as defined in Section 18215 of the Health and Safety Code, which are open to the general public and which contain camping sites rented for a per use fee, or a "mobilehome park," as defined in either Section 798.4 of the Civil Code or Section 18214 of the Health and Safety Code.

As used in this title, "seller" means membership camping operator.

(b) "Membership camping contract" means an agreement offered or sold within the State of California by a membership camping operator or membership camping broker evidencing a purchaser's right or license to use for more than 14 days in a year, the campgrounds of a membership camping operator and includes a membership which provides for this use.

(c) "Camping site" means a space designed and promoted for the purpose of locating a trailer, tent, tent trailer, pickup camper, or other similar device used for camping.

(d) "Offer" means any solicitation reasonably designed to result in entering into a membership camping contract.

(e) "Person" means any individual, corporation, partnership, limited liability company, trust, association, or other organization other than a government or a subdivision thereof.

(f) "Purchaser" means a person who enters into a membership camping contract and thereby obtains the right to use the campgrounds of a membership camping operator.

(g) "Sale" or "sell" means entering into, or other disposition, of a membership camping contract for value. The term "value" does not include a reasonable fee to offset the administrative costs of transfer of a membership camping contract.

(h) "Campground" means real property within this state owned or operated by a membership camping operator and designated in whole or in part by the membership camping operator as available

for camping or outdoor recreation by purchasers of membership camping contracts.

(i) "Blanket encumbrance" means any mortgage, deed of trust, option to purchase, vendor's lien or interest under a contract or agreement of sale, or other financing lien or encumbrance granted by the membership camping operator or affiliate which secures or evidences the obligation to pay money or to sell or convey any campgrounds made available to purchasers by the membership camping operator or any portion thereof, and which authorizes, permits, or requires the foreclosure or other disposition of the campground.

(j) "Nondisturbance agreement" means an instrument in recordable form by which the holder of a blanket encumbrance agrees to all of the following:

(1) The holder's rights in any campground made available to purchasers, prior or subsequent to the agreement, by the membership camping operator shall be subordinate to the rights of purchasers from and after the recordation of the nondisturbance agreement.

(2) The holder and all successors and assignees of the holder, and any person who acquires the campground through foreclosure or by deed in lieu of foreclosure of the blanket encumbrance shall take the campground subject to the rights of purchasers.

(3) The holder or any successor acquiring the campground through the blanket encumbrance shall not use or cause the campground to be used in a manner which would materially prevent purchasers from using or occupying the campground in a manner contemplated by the purchasers' membership camping contracts. However, the holder shall have no obligation to, and no liability for failure to assume the responsibilities or obligations of, the membership camping operator under the membership camping contracts.

(k) "Membership camping contract broker" means a person who, for compensation, resells or offers to resell a membership camping contract to a new purchaser on behalf of a prior purchaser. Membership camping contract broker does not include a membership camping operator or its employees or agents.

SEC. 46. Section 1812.501 of the Civil Code is amended to read:

1812.501. (a) The term "employment agency" or "agency" means:

(1) Any person who, for a fee or other valuable consideration to be paid, directly or indirectly by a jobseeker, performs, offers to perform or represents it can or will perform any of the following services:

(A) Procures, offers, promises, or attempts to procure employment or engagements for others or employees for employers.

(B) Registers persons seeking to procure or retain employment or engagement.

(C) Gives information as to where and from whom this help,

employment, or engagement may be procured.

(D) Provides employment or engagements.

The term "employment agency" or "agency" shall not mean or include any employment counseling service or any job listing service.

(2) Any person who offers, as one of its main objects or purposes, to procure employment for any person who will pay for its services, or that collects dues, tuition, or membership or registration fees of any sort, where the main object of the person paying the same is to secure employment.

(3) Any person who for a fee or other valuable consideration procures, offers, promises, provides, or attempts to procure babysitting or domestic employment for others or domestics or babysitters for others.

(b) (1) The term "employment counseling service" means any person who offers, advertises or represents it can or will provide any of the following services for a fee: career counseling, vocational guidance, aptitude testing, executive consulting, personnel consulting, career management, evaluation, or planning, or the development of resumés and other promotional materials relating to the preparation for employment. The term "employment counseling service" shall not mean or include persons who provide services strictly on an hourly basis with no financial obligation required of the consumer beyond the hourly fee for services rendered. An "employment counseling service" does not include the functions of an "employment agency" as defined in subdivision (a).

(2) The term "employment counseling service" does not include:

(A) Businesses which are retained by, act solely on behalf of, and are compensated solely by, prior or current employers, which do not require any "customer" to sign a contract, and do not in any way hold any "customer" liable for fees.

(B) Any provider of vocational rehabilitation in which the counseling services are paid for by insurance benefits, where the counseling is provided as a result of marital dissolution or separation proceedings to prepare one of the spouses for reentry into the job market and where the fees are paid by some party other than the person receiving the counseling services.

The exemption provided in this subparagraph does not apply to any vocational rehabilitation counselor who receives any payments directly from the individual customer receiving the counseling.

(C) Any person who engages solely in the preparation of resumés and cover letters, provided that the resumé writing service does not advertise or hold itself out as offering other job seeking or placement services and does not charge more than three hundred dollars ($300) for any resumé, cover letter, or combination of both to any single customer in any individual transaction.

(D) Any public educational institution.

(E) Any private educational institution established solely for educational purposes which, as a part of its curriculum, offers

employment counseling to its student body and which institution conforms to the requirements of Section 94310 of the Education Code.

(F) A psychologist or psychological corporation licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, providing psychological assessment, career or occupational counseling, or consultation and related professional services within their scope of practice.

(G) Educational psychologists licensed pursuant to Chapter 13 (commencing with Section 4986) of Division 2 of the Business and Professions Code, providing counseling services within their scope of practice.

(c) The term "job listing service" means any person who provides, offers, or represents it can or will provide any of the following services, for a fee or other valuable consideration to be paid, directly or indirectly, by the jobseeker in advance of, or contemporaneously with, performance of these services: matches jobseekers with employment opportunities, providing or offering to provide jobseekers lists of employers or lists of job openings or like publications, or preparing resumés or lists of jobseekers for distribution to potential employers.

(d) A " nurses' registry" as defined in subdivision (b) of Section 1812.524 is an employment agency. However, unless otherwise provided for in this title, a nurses' registry shall not be required to comply with Chapter 2 (commencing with Section 1812.503) regulating employment agencies but shall instead be required to comply with Chapter 7 (commencing with Section 1812.524).

(e) "Jobseeker" means a person seeking employment.

(f) "Employer" means any individual, company, partnership, association, corporation, agent, employee, or representative for whom or for which an employment agency or job listing service attempts to obtain an employee or to place a jobseeker.

(g) "Job order" means any written or oral instruction, direction, or permission granted by an employer or its agent to an employment agency or job listing service to refer jobseekers for a specified job.

(h) "Domestic agency" means any agency which provides or attempts to provide employment by placement of domestic help in private homes.

(i) "Deposit" means any money or valuable consideration received by an employment agency or job listing service from a jobseeker for referring the jobseeker to a position of employment prior to the jobseeker's acceptance of a position.

(j) "Fee" means:

(1) Any money or other valuable consideration paid, or promised to be paid, for services rendered or to be rendered by any person conducting an employment agency, employment counseling service, or job listing service under this title.

(2) Any money received by any person in excess of that which has been paid out by him or her for transportation, transfer of baggage,

or board and lodging for any applicant for employment.

(k) "Registration fee" means any charge made, or attempted to be made, by an employment agency for registering or listing an applicant for employment, for letter writing, or any charge of a like nature made, or attempted to be made without having a bona fide order for the placement of the applicant in a position.

(*l*) "Person" means any individual, corporation, partnership, limited liability company, trust, association, or other organization.

SEC. 46.1. Section 1812.601 of the Civil Code is amended to read:

1812.601. (a) "Advertisement" means any of the following:

(1) Any written or printed communication for the purpose of soliciting, describing, or offering to act as an auctioneer or provide auction company services, including any brochure, pamphlet, newspaper, periodical, or publication.

(2) A telephone or other directory listing caused or permitted by an auctioneer or auction company to be published that indicates the offer to practice auctioneering or auction company services.

(3) A radio, television, or similar airwave transmission that solicits or offers the practice of auctioneering or auction company services.

(b) "Auction" means a sale transaction conducted by means of oral or written exchanges between an auctioneer and the members of his or her audience, which exchanges consist of a series of invitations for offers for the purchase of goods made by the auctioneer and offers to purchase made by members of the audience and culminate in the acceptance by the auctioneer of the highest or most favorable offer made by a member of the participating audience. However, auction does not include a sale of real estate or a sale in any sequence of real estate with personal property or fixtures or both in a unified sale pursuant to subparagraph (ii) of paragraph (a) of subdivision (4) of Section 9501 of the Commercial Code.

(c) "Auction company" means any person who arranges, manages, sponsors, advertises, accounts for the proceeds of, or carries out auction sales at locations, including, but not limited to, any fixed location, including an auction barn, gallery place of business, sale barn, sale yard, sale pavilion, and the contiguous surroundings of each.

(d) "Auctioneer" means any individual who is engaged in, or who by advertising or otherwise holds himself or herself out as being available to engage in, the calling for, the recognition of, and the acceptance of, offers for the purchase of goods at an auction.

(e) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's control.

(f) "Employer" means a person who employs an individual for wages or salary, lists the individual on the person's payroll records, and withholds legally required deductions and contributions.

(g) "Goods" means any goods, wares, chattels, merchandise, or other personal property, including domestic animals and farm

products.

(h) "Person" means an individual, corporation, partnership, limited liability company, trust, including a business trust, firm, association, organization, or any other form of business enterprise.

SEC. 47. Section 1882 of the Civil Code is amended to read:

1882. Unless the context requires otherwise, the following definitions govern the construction of this title:

(a) "Customer" means the person in whose name a utility service is provided.

(b) "Divert" means to change the intended course or path of electricity, gas, or water without the authorization or consent of the utility.

(c) "Person" means any individual, a partnership, firm, association, limited liability company, or corporation.

(d) "Reconnection" means the commencement of utility service to a customer or other person after service has been lawfully discontinued by the utility.

(e) "Tamper" means to rearrange, injure, alter, interfere with, or otherwise to prevent from performing normal or customary function.

(f) "Utility" means any electrical, gas, or water corporation as those terms are defined in the Public Utilities Code and includes any electrical, gas, or water system operated by any public agency.

(g) "Utility service" means the provision of electricity, gas, water, or any other service or commodity furnished by the utility for compensation.

SEC. 48. Section 2430 of the Civil Code is amended to read:

2430. As used in this article:

(a) "Durable power of attorney for health care" means a durable power of attorney to the extent that it authorizes an attorney in fact to make health care decisions for the principal.

(b) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition.

(c) "Health care decision" means consent, refusal of consent, or withdrawal of consent to health care.

(d) "Health care provider" means a person who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or practice of a profession.

(e) "Person" includes an individual, corporation, partnership, limited liability company, association, the state, a city, county, city and county, or other public entity or governmental subdivision or agency, or any other legal entity.

(f) "Community care facility" means a community care facility as defined in Section 1502 of the Health and Safety Code.

(g) "Residential care facilities for the elderly" means a residential care facility for the elderly as defined in Section 1569.2 of the Health and Safety Code.

SEC. 49. Section 2945.1 of the Civil Code is amended to read:

2945.1. The following definitions apply to this chapter:

(a) "Foreclosure consultant" means any person who makes any solicitation, representation, or offer to any owner to perform for compensation or who, for compensation, performs any service which the person in any manner represents will in any manner do any of the following:

(1) Stop or postpone the foreclosure sale.

(2) Obtain any forbearance from any beneficiary or mortgagee.

(3) Assist the owner to exercise the right of reinstatement provided in Section 2924c.

(4) Obtain any extension of the period within which the owner may reinstate his or her obligation.

(5) Obtain any waiver of an acceleration clause contained in any promissory note or contract secured by a deed of trust or mortgage on a residence in foreclosure or contained in any such deed of trust or mortgage.

(6) Assist the owner to obtain a loan or advance of funds.

(7) Avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale.

(8) Save the owner's residence from foreclosure.

(b) A foreclosure consultant does not include any of the following:

(1) A person licensed to practice law in this state when the person renders service in the course of his or her practice as an attorney at law.

(2) A person licensed under Division 3 (commencing with Section 12000) of the Financial Code when the person is acting as a prorater as defined therein.

(3) A person licensed under Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code when the person makes a direct loan or when the person (A) engages in acts whose performance requires licensure under that part, (B) is entitled to compensation for the acts performed in connection with the sale of a residence in foreclosure or with the arranging of a loan secured by a lien on a residence in foreclosure, (C) does not claim, demand, charge, collect, or receive any compensation until the acts have been performed or cannot be performed because of an owner's failure to make the disclosures set forth in Section 10243 of the Business and Professions Code or failure to accept an offer from a purchaser or lender ready, willing, and able to purchase a residence in foreclosure or make a loan secured by a lien on a residence in foreclosure on the terms prescribed in a listing or a loan agreement, and (D) does not acquire any interest in a residence in foreclosure directly from an owner for whom the person agreed to perform the acts other than as a trustee or beneficiary under a deed of trust given to secure the payment of a loan or that compensation. For the purposes of this paragraph, a "direct loan" means a loan of a real estate broker's own funds secured by a deed of trust on the residence

in foreclosure, which loan and deed of trust the broker in good faith attempts to assign to a lender, for an amount at least sufficient to cure all of the defaults on obligations which are then subject to a recorded notice of default, provided that, if a foreclosure sale is conducted with respect to the deed of trust, the person conducting the foreclosure sale has no interest in the residence in foreclosure or in the outcome of the sale and is not owned, controlled, or managed by the lending broker; the lending broker does not acquire any interest in the residence in foreclosure directly from the owner other than as a beneficiary under the deed of trust; and the loan is not made for the purpose or effect of avoiding or evading the provisions of this article.

(4) A person licensed under Chapter 1 (commencing with Section 5000) of Division 3 of the Business and Professions Code when the person is acting in any capacity for which the person is licensed under those provisions.

(5) A person or his or her authorized agent acting under the express authority or written approval of the Department of Housing and Urban Development or other department or agency of the United States or this state to provide services.

(6) A person who holds or is owed an obligation secured by a lien on any residence in foreclosure when the person performs services in connection with this obligation or lien.

(7) Any person licensed to make loans pursuant to Division 9 (commencing with Section 22000), 10 (commencing with Section 24000), or 11 (commencing with Section 26000) of the Financial Code, subject to the authority of the Commissioner of Corporations to terminate this exclusion, after notice and hearing, for any person licensed pursuant to any of those divisions upon a finding that the licensee is found to have engaged in practices described in subdivision (a) of Section 2945.

(8) Any person or entity doing business under any law of this state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, insurance companies, or any person or entity authorized under the laws of this state to conduct a title or escrow business, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of the above, and any agent or employee of the above while engaged in the business of these persons or entities.

(c) "Person" means any individual, partnership, corporation, limited liability company, association or other group, however organized.

(d) "Service" means and includes, but is not limited to, any of the following:

(1) Debt, budget, or financial counseling of any type.

(2) Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a lien on a residence in foreclosure.

(3) Contacting creditors on behalf of an owner of a residence in foreclosure.

(4) Arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure may cure his or her default and reinstate his or her obligation pursuant to Section 2924c.

(5) Arranging or attempting to arrange for any delay or postponement of the time of sale of the residence in foreclosure.

(6) Advising the filing of any document or assisting in any manner in the preparation of any document for filing with any bankruptcy court.

(7) Giving any advice, explanation or instruction to an owner of a residence in foreclosure which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the residence in foreclosure, the full satisfaction of that obligation, or the postponement or avoidance of a sale of a residence in foreclosure pursuant to a power of sale contained in any deed of trust.

(e) "Residence in foreclosure" means a residence in foreclosure as defined in Section 1695.1.

(f) "Owner" means a property owner as defined in Section 1695.1.

(g) "Contract" means any agreement, or any term thereof, between a foreclosure consultant and an owner for the rendition of any service as defined in subdivision (d).

SEC. 50. Section 2981 of the Civil Code is amended to read:

2981. As used in this chapter, unless the context otherwise requires:

(a) "Conditional sale contract" means:

(1) Any contract for the sale of a motor vehicle between a buyer and a seller, with or without accessories, under which possession is delivered to the buyer and either (A) the title vests in the buyer thereafter only upon the payment of all or a part of the price, or the performance of any other condition, or (B) a lien on the property is to vest in the seller as security for the payment of part or all of the price, or for the performance of any other condition, or

(2) Any contract for the bailment of a motor vehicle between a buyer and a seller, with or without accessories, by which the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the vehicle and its accessories, if any, at the time the contract is executed, and by which it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the vehicle upon full compliance with the terms of the contract.

(b) "Seller" means a person engaged in the business of selling or leasing motor vehicles under conditional sale contracts.

(c) "Buyer" means the person who buys or hires a motor vehicle under a conditional sale contract.

(d) "Person" includes an individual, company, firm, association, partnership, trust, corporation, limited liability company, or other

legal entity.

(e) "Cash price" means the amount for which the seller would sell and transfer to the buyer unqualified title to the motor vehicle described in the conditional sale contract, if the property were sold for cash at the seller's place of business on the date the contract is executed, and shall include taxes to the extent imposed on the cash sale and the cash price of accessories or services related to the sale such as delivery, installation, alterations, modifications, improvements, document preparation fees, or a service contract.

(f) "Downpayment" means any payment which the buyer pays or agrees to pay to the seller in cash or property value or money's worth at or prior to delivery by the seller to the buyer of the motor vehicle described in the conditional sale contract. The term shall also include the amount of any portion of the downpayment the payment of which is deferred until not later than the due date of the second otherwise scheduled payment, if the amount of the deferred downpayment is not subject to a finance charge. The term does not include any administrative finance charge charged, received or collected by the seller as provided in this chapter.

(g) "Amount financed" means the amount required to be disclosed pursuant to paragraph (8) of subdivision (a) of Section 2982.

(h) "Unpaid balance" means the difference between (e) and (f), plus all insurance premiums (except for credit life or disability insurance when the amount thereof is included in the finance charge), which are included in the contract balance, and the total amount paid or to be paid (1) to any public officer in connection with the transaction, and (2) for license, certificate of title, and registration fees imposed by law, and the amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code.

(i) "Finance charge" has the meaning set forth for that term in Section 226.4 of Regulation Z. The term shall not include delinquency charges or collection costs and fees as provided by subdivision (k) of Section 2982, extension or deferral agreement charges as provided by Section 2982.3, or amounts for insurance, repairs to or preservation of the motor vehicle, or preservation of the security interest therein advanced by the holder under the terms of the contract.

(j) "Total of payments" means the amount required to be disclosed pursuant to subdivision (h) of Section 226.18 of Regulation Z. The term includes any portion of the downpayment which is deferred until not later than the second otherwise scheduled payment and which is not subject to a finance charge. The term shall not include amounts for which the buyer may later become obligated under the terms of the contract in connection with insurance, repairs to or preservation of the motor vehicle, preservation of the security interest therein, or otherwise.

(k) "Motor vehicle" means any vehicle required to be registered

under the Vehicle Code which is bought for use primarily for personal or family purposes, and does not mean any vehicle which is bought for use primarily for business or commercial purposes or a mobilehome, as defined in Section 18008 of the Health and Safety Code which is sold on or after July 1, 1981. "Motor vehicle" does not include any trailer which is sold in conjunction with a vessel and which comes within the definition of "goods" under Section 1802.1.

(*l*) "Purchase order" means a sales order, car reservation, statement of transaction or any other such instrument used in the conditional sale of a motor vehicle pending execution of a conditional sale contract. The purchase order shall conform to the disclosure requirements of subdivision (a) of Section 2982 and Section 2984.1 and the provisions of subdivision (m) of Section 2982 shall be applicable thereto.

(m) "Regulation Z" means any rule, regulation or interpretation promulgated by the Board of Governors of the Federal Reserve System ("Board") under the federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq.), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue such interpretations or approvals.

(n) "Simple-interest basis" means the determination of a finance charge, other than an administrative finance charge, by applying a constant rate to the unpaid balance as it changes from time to time either:

(1) Calculated on the basis of a 365-day year and actual days elapsed (although the seller may, but need not, adjust its calculations to account for leap years); reference in this chapter to the "365-day basis" shall mean this method of determining the finance charge, or

(2) For contracts entered into prior to January 1, 1988, calculated on the basis of a 360-day year consisting of 12 months of 30 days each and on the assumption that all payments will be received by the seller on their respective due dates; reference in this chapter to the "360-day basis" shall mean this method of determining the finance charge.

(o) "Precomputed basis" means the determination of a finance charge by multiplying the original unpaid balance of the contract by a rate and multiplying that product by the number of payment periods elapsing between the date of the contract and the date of the last scheduled payment.

(p) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair, or both, of the motor vehicle described in the conditional sale contract.

SEC. 51. Section 2985.7 of the Civil Code is amended to read:

2985.7. (a) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code.

(b) "Lessor" includes "bailor" and is a person who is engaged in the business of leasing, offering to lease or arranging the lease of a

motor vehicle under a lease contract.

For the purpose of this subdivision, "person" means an individual, partnership, corporation, limited liability company, estate, trust, cooperative, association or any other legal entity.

(c) "Lessee" includes "bailee" and is a natural person who leases, offers to lease or is offered the lease of a motor vehicle under a lease contract.

(d) "Lease contract" means any contract for or in contemplation of the lease or bailment for the use of a motor vehicle, and the purchase of services incidental thereto, by a natural person for a term exceeding four months, primarily for personal, family or household purposes, whether or not it is agreed that the lessee bear the risk of the motor vehicle's depreciation. Lease contract does not include a lease for agricultural, business or commercial purposes, or to a government or governmental agency or instrumentality.

SEC. 52. Section 3343.5 of the Civil Code is amended to read:

3343.5. (a) Any one or more of the following who suffers any damage proximately resulting from one or more acts of unlawful motor vehicle subleasing, as described in Chapter 12.7 (commencing with Section 570) of Title 13 of Part 1 of the Penal Code, may bring an action against the person who has engaged in those acts:

(1) A seller or other secured party under a conditional sale contract or a security agreement.

(2) A lender under a direct loan agreement.

(3) A lessor under a lease contract.

(4) A buyer under a conditional sale contract.

(5) A purchaser under a direct loan agreement, an agreement which provides for a security interest, or an agreement which is equivalent to these types of agreements.

(6) A lessee under a lease contract.

(7) An actual or purported transferee or assignee of any right or interest of a buyer, a purchaser, or a lessee.

(b) The court in an action under subdivision (a) may award actual damages; equitable relief, including, but not limited to, an injunction and restitution of money and property; punitive damages; reasonable attorney's fees and costs; and any other relief which the court deems proper.

(c) As used in this section, the following terms have the following meanings:

(1) "Buyer" has the meaning set forth in subdivision (c) of Section 2981.

(2) "Conditional sale contract" has the meaning set forth in subdivision (a) of Section 2981. Notwithstanding subdivision (k) of Section 2981, "conditional sale contract" includes any contract for the sale or bailment of a motor vehicle between a buyer and a seller primarily for business or commercial purposes.

(3) "Direct loan agreement" means an agreement between a lender and a purchaser whereby the lender has advanced funds pursuant to a loan secured by the motor vehicle which the purchaser

has purchased.

(4) "Lease contract" means a lease contract between a lessor and lessee as this term and these parties are defined in Section 2985.7. Notwithstanding subdivision (d) of Section 2985.7, "lease contract" includes a lease for business or commercial purposes.

(5) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code.

(6) "Person" means an individual, company, firm, association, partnership, trust, corporation, limited liability company, or other legal entity.

(7) "Purchaser" has the meaning set forth in subdivision (33) of Section 1201 of the Commercial Code.

(8) "Security agreement" and "secured party" have the meanings set forth, respectively, in paragraphs (*l*) and (m) of subdivision (1) of Section 9105 of the Commercial Code. "Security interest" has the meaning set forth in subdivision (37) of Section 1201 of the Commercial Code.

(9) "Seller" has the meaning set forth in subdivision (b) of Section 2981, and includes the present holder of the conditional sale contract.

(d) The rights and remedies provided in this section are in addition to any other rights and remedies provided by law.

SEC. 53. Section 3372 of the Civil Code is amended to read:

3372. (a) Any person engaged in the business of advising others for compensation as to the advisability of purchasing, holding or selling property for investment and who represents himself or herself to be an expert with respect to investment decisions in such property, or any class of such property, shall be liable to any person to whom such advisory services are furnished for compensation and who is damaged by reason of such person's reliance upon such services, for the amount of such compensation and for such damages, unless the person rendering such services proves that such services were performed with the due care and skill reasonably to be expected of a person who is such an expert.

(b) For the purposes of this section, the following apply:

(1) A person represents that such person is an "expert" within the meaning of this section if such person represents that he or she is a "financial planner," "financial adviser," "financial counselor," "financial consultant" or an "investment adviser," "investment counselor" or "investment consultant" or that such person renders "financial planning services," "financial advisory services," "financial counseling services," "financial consulting services" or "investment advisory services," "investment counseling services" or "investment consulting services" or makes substantially equivalent representations with respect to such person's business or qualifications.

(2) "Person" includes an individual, corporation, partnership, limited liability company, joint venture, an association, joint stock company, a trust or unincorporated association.

(c) The following persons are not liable under the provisions of

this section:

(1) Any person, when engaged in the purchase or sale of tangible personal property for his or her own account, and the agents and employees of such persons.

(2) Any person, and the agents and employees of such person, licensed under, exempted from licensing under, or not subject to licensing under by reason of an express exclusion from a definition contained in, the Commodity Exchange Act, the Investment Advisers Act of 1940, the California Commodity Law, the Corporate Securities Law of 1968, the Insurance Code, the Real Estate Law, or any state or federal law for the licensing and regulation of banks or savings and loan associations.

SEC. 54. Section 3426.1 of the Civil Code is amended to read:

3426.1. As used in this title, unless the context requires otherwise:

(a) "Improper means" includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means. Reverse engineering or independent derivation alone shall not be considered improper means.

(b) "Misappropriation" means:

(1) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or

(2) Disclosure or use of a trade secret of another without express or implied consent by a person who:

(A) Used improper means to acquire knowledge of the trade secret; or

(B) At the time of disclosure or use, knew or had reason to know that his or her knowledge of the trade secret was:

(i) Derived from or through a person who had utilized improper means to acquire it;

(ii) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

(iii) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or

(C) Before a material change of his or her position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

(c) "Person" means a natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(d) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and

(2) Is the subject of efforts that are reasonable under the

circumstances to maintain its secrecy.

SEC. 55. Section 3439.01 of the Civil Code is amended to read:

3439.01. As used in this chapter the following definitions are applicable:

(a) "Asset" means property of a debtor, but the term does not include, the following:

(1) Property to the extent it is encumbered by a valid lien.

(2) Property to the extent it is generally exempt under nonbankruptcy law.

(3) An interest in property held in tenancy by the entireties to the extent it is not subject to process by a creditor holding a claim against only one tenant.

(b) "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(c) "Creditor" means a person who has a claim, and includes an assignee of a general assignment for the benefit of creditors, as defined in Section 493.010 of the Code of Civil Procedure, of a debtor.

(d) "Debt" means liability on a claim.

(e) "Debtor" means a person who is liable on a claim.

(f) "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien.

(g) "Person" means an individual, partnership, corporation, limited liability company, association, organization, government or governmental subdivision or agency, business trust, estate, trust, or any other legal or commercial entity.

(h) "Property" means anything that may be the subject of ownership.

(i) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

(j) "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

SEC. 56. Section 3504 of the Civil Code is amended to read:

3504. As used in this title:

(a) "Animal" means any amphibian, bird, mammal or reptile. It does not include any fish or insect.

(b) "Motion picture" means any motion picture, regardless of length or content, which is exhibited in a motion picture theater to paying customers, or is exhibited on television to paying customers or under the sponsorship of a paying advertiser. It shall not include motion pictures made for scientific, research, or educational purposes, or motion pictures exhibited as home movies, or amateur

films, which are shown free or at cost to friends, neighbors or civic groups.

(c) "Person" means individuals, corporations, associations, partnerships, limited liability companies, trustees, lessees, agents and assignees.

SEC. 57. Section 116.130 of the Code of Civil Procedure is amended to read:

116.130. In this chapter, unless the context indicates otherwise:

(a) "Plaintiff" means the party who has filed a small claims action; the term includes a defendant who has filed a claim against a plaintiff.

(b) "Defendant" means the party against whom the plaintiff has filed a small claims action; the term includes a plaintiff against whom a defendant has filed a claim.

(c) "Judgment creditor" means the party, whether plaintiff or defendant, in whose favor a money judgment has been rendered.

(d) "Judgment debtor" means the party, whether plaintiff or defendant, against whom a money judgment has been rendered.

(e) "Person" means an individual, corporation, partnership, limited liability company, firm, association, or other entity.

(f) "Individual" means a natural person.

(g) "Party" means a plaintiff or defendant.

(h) "Motion" means a party's written request to the court for an order or other action; the term includes an informal written request to the court, such as a letter.

(i) "Declaration" means a written statement signed by an individual which includes the date and place of signing, and a statement under penalty of perjury that its contents are true and correct.

(j) "Good cause" means circumstances sufficient to justify the requested order or other action, as determined by the judge.

(k) "Mail" means first-class mail with postage fully prepaid, unless stated otherwise.

SEC. 58. Section 481.170 of the Code of Civil Procedure is amended to read:

481.170. "Person" includes a natural person, a corporation, a partnership or other unincorporated association, a limited liability company, and a public entity.

SEC. 59. Section 511.070 of the Code of Civil Procedure is amended to read:

511.070. "Person" includes an individual, a corporation, a partnership or other unincorporated association, a limited liability company, and a public entity.

SEC. 60. Section 680.280 of the Code of Civil Procedure is amended to read:

680.280. "Person" includes a natural person, a corporation, a partnership or other unincorporated association, a general partner of a partnership, a limited liability company, and a public entity.

SEC. 61. Section 706.011 of the Code of Civil Procedure is

amended to read:

706.011. As used in this chapter:

(a) "Earnings" means compensation payable by an employer to an employee for personal services performed by such employee, whether denominated as wages, salary, commission, bonus, or otherwise.

(b) "Earnings assignment order for support" means an order, made pursuant to Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code or Section 3088 of the Probate Code, which requires an employer to withhold earnings for support.

(c) "Employee" means a public officer and any individual who performs services subject to the right of the employer to control both what shall be done and how it shall be done.

(d) "Employer" means a person for whom an individual performs services as an employee.

(e) "Judgment creditor," as applied to the state, means the specific state agency seeking to collect a judgment or tax liability.

(f) "Judgment debtor" includes a person from whom the state is seeking to collect a tax liability under Article 4 (commencing with Section 706.070), whether or not a judgment has been obtained on such tax liability.

(g) "Person" includes an individual, a corporation, a partnership or other unincorporated association, a limited liability company, and a public entity.

SEC. 62. Section 1203.51 of the Code of Civil Procedure is amended to read:

1203.51. Unless the context otherwise requires, the definitions set forth in this section shall govern the construction of this chapter.

(a) "Person" means an individual, corporation, firm, partnership, limited liability company, or association.

(b) "Owner" means a person holding any interest in the legal or equitable title or both to any leasehold for oil or gas purposes, or his or her agent and shall include purchasers under executory contract, receivers, and trustees.

(c) "Contract" means a contract, written or oral, express or implied, or partly express and partly implied, or executory or executed, or partly executory and partly executed.

(d) "Material" means any material, machinery, appliances, buildings, structures, casing, tanks, pipelines, tools, bits, or other equipment or supplies but does not include rigs or hoists or their integral component parts except wire lines.

(e) "Labor" means work performed in return for wages.

(f) "Services" means work performed exclusive of labor, including the hauling of material, whether or not involving the furnishing of material.

(g) "Furnish" means sell or rent.

(h) "Drilling" means drilling, digging, shooting, torpedoing, perforating, fracturing, testing, logging, acidizing, cementing, completing or repairing.

(i) "Operating" means all operations conducted on the lease in connection with or necessary to the production of oil or gas, either in the development thereof or in working thereon by the subtractive process.

(j) "Construction" means construction, maintenance, operation, or repair, either in the development thereof or in working thereon by the subtractive process.

(k) "Original contractor" means any person for whose benefit a lien is prescribed under Section 1203.52.

SEC. 63. Section 1235.160 of the Code of Civil Procedure is amended to read:

1235.160. "Person" includes any public entity, individual, association, organization, partnership, trust, limited liability company, or corporation.

SEC. 64. Section 1601 of the Code of Civil Procedure is amended to read:

1601. As used in this chapter:

(a) "Unclaimed property" means any tangible personal property or intangible personal property, including choses in action in amounts certain, and all debts owed or entrusted funds or other property held by any federal agency or any officer or employee thereof, whether occasioned by contract or operation of law or otherwise, except bonuses and gratuities, which has remained unclaimed by the owner for:

(1) Twenty years from the date of maturity or call for payment, if arising from transactions under the public debt; or

(2) Twenty years after the last transaction concerning principal or interest, if deposits in the postal savings system; or

(3) Five years after the property first became payable, demandable, or returnable, if arising from any other transaction.

(b) "Owner" means any person, including his or her legal representative, who has or had a legal or equitable interest in unclaimed property. The owner shall be conclusively presumed to be the person to whom unclaimed property was or is payable or returnable according to the records of the United States Government. If two or more persons are interested in the property, and the extent of their respective interests is unknown, it shall be presumed that their interests in such property are equal.

(c) "Person" includes any individual, partnership, corporation, limited liability company, unincorporated association, or other legal entity.

SEC. 65. Section 605 of the Corporations Code is amended to read:

605. (a) For the purpose of determining whether a corporation has outstanding shares held of record by 100 or more persons, shares shall be deemed to be "held of record" by each person who is identified as the owner of such shares on the record of shareholders maintained by or on behalf of the corporation, subject to the following:

(1) In any case where the record of shareholders has not been maintained in accordance with accepted practice, any additional person who would be identified as such an owner on such record if it had been maintained in accordance with accepted practice shall be included as a holder of record.

(2) Shares identified as held of record by a corporation, a partnership, a limited liability company, a trust, whether or not the trustees are named, or other organization shall be included as so held by one person.

(3) Shares identified as held of record by one or more persons as trustees, executors, guardians, conservators, custodians or in other fiduciary capacities with respect to a single trust, estate or account shall be included as held of record by one person.

(4) Shares held by two or more persons as coowners shall be included as held by one person.

(5) Shares registered in substantially similar names, where the corporation (or other person soliciting proxies) has reason to believe because of the address or other indications that such names represent the same person, may be included as held of record by one person.

(b) Notwithstanding subdivision (a):

(1) Shares held, to the knowledge of the corporation (or other person soliciting proxies), subject to a voting trust, deposit agreement or similar arrangement shall be included as held of record by the recordholders of the voting trust certificates, certificates of deposit, receipts or similar evidences of interest in such securities; provided, however, that the corporation (or other person soliciting proxies) may rely in good faith on such information as is received in response to its request from a nonaffiliated issuer of the certificates or evidences of interest.

(2) If the corporation (or other person soliciting proxies) knows or has reason to know that the form of holding shares of record is used primarily to circumvent the provisions of this section, the beneficial owners of such shares shall be deemed to be the record owners thereof.

SEC. 66. Section 12245 of the Corporations Code is amended to read:

12245. "Person," unless otherwise expressly provided, includes any association, company, domestic or foreign corporation, corporation sole, estate, individual, joint stock company, joint venture, partnership, domestic or foreign limited liability company, government or political subdivision, agency or instrumentality of a government.

SEC. 66.1. Section 13401 of the Corporations Code is amended to read:

13401. As used in this part:

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

(b) "Professional corporation" means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 which is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and which in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the State Board of Pharmacy, the Board of Examiners in Veterinary Medicine, the Board of Architectural Examiners, the Certified Court Reporters Board, or the Board of Registered Nursing shall not be required to obtain a certificate of registration in order to render those professional services.

(c) "Foreign professional corporation" means a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is authorization in the Business and Professions Code for the performance of professional services by a foreign professional corporation.

(d) "Licensed person" means any natural person who is duly licensed under the provisions of the Business and Professions Code or the Chiropractic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which he or she is or intends to become, an officer, director, shareholder, or employee.

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

SEC. 67. Section 15002 of the Corporations Code is amended to read:

15002. In this act, "court" includes every court and judge having jurisdiction in the case.

"Business" includes every trade, occupation, or profession.

"Person" includes individuals, partnerships, corporations, limited liability companies, and other associations.

"Bankrupt" includes a debtor under Chapter 7 of the federal bankruptcy law or an insolvent under any state insolvency act.

"Conveyance" includes every assignment, lease, mortgage, or encumbrance.

"Real property" includes land and any interest or estate in land.

SEC. 68. Section 15611 of the Corporations Code is amended to read:

15611. As used in this chapter, unless the context otherwise requires:

(a) "Acknowledged" means that an instrument is either of the following:

(1) Formally acknowledged as provided in Article 3 (commencing with Section 1180) of Chapter 4 of Title 4 of Part 4 of Division 2 of the Civil Code.

(2) Executed to include substantially the following wording preceding the signature: It is hereby declared that I am the person who executed this instrument, which execution is my act and deed.

Any certificate of acknowledgment taken without this state before a notary public or a judge or clerk of a court of record having an official seal need not be further authenticated.

(b) "Capital account" of a partner, unless otherwise provided in the partnership agreement, means the amount of the capital interest of that partner in the partnership consisting of that partner's original contribution, as (1) increased by any additional contributions and by that partner's share of the partnership's profits and (2) decreased by any distribution to that partner and by that partner's share of the partnership's losses.

(c) "Certificate of limited partnership" or "certificate" means the certificate referred to in Section 15621, including all amendments thereto.

(d) "Constituent corporation" means a corporation which is merged with or into one or more limited partnerships or other business entities and includes a surviving corporation.

(e) "Constituent limited partnership" means a limited partnership which is merged with or into one or more other limited partnerships or other business entities and includes a surviving limited partnership.

(f) "Constituent other business entity" means an other business entity that is merged with or into one or more limited partnerships and includes a surviving other business entity.

(g) "Contribution" means any money, property or services rendered, or a promissory note or other binding obligation to contribute money or property, or to render services as permitted in this chapter, which a partner contributes to a limited partnership as capital in that partner's capacity as a partner pursuant to an agreement between the partners, including an agreement as to value.

(h) "Disappearing limited partnership" means a constituent limited partnership which is not the surviving limited partnership.

(i) "Disappearing other business entity" means a constituent other business entity that is not the surviving other business entity.

(j) "Distribution" means the transfer of money or property by a partnership to its partners without consideration.

(k) "Domestic corporation" means a corporation formed under the laws of this state.

(*l*) "Foreign limited partnership" means a partnership formed under the laws of any state other than this state or under the laws of a foreign country and having as partners one or more general

partners and one or more limited partners (or their equivalents under any name).

(m) "Foreign other business entity" means an other business entity formed under the laws of any state other than this state or under the laws of a foreign country.

(n) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement or a person who has been admitted as a general partner pursuant to Section 15641.

(o) "Interests of all partners" means the aggregate interests of all partners in the current profits derived from business operations of the partnership.

(p) "Interests of limited partners" means the aggregate interests of all limited partners in their respective capacities as limited partners in the current profits derived from business operations of the partnership.

(q) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement, or an assignee of a limited partnership interest who has become a limited partner pursuant to Section 15674, or, to the extent provided in subdivision (b) of Section 15662, a former general partner who has ceased to be a general partner.

(r) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(s) "Mail" means first-class mail, postage prepaid, unless registered mail is specified. Registered mail includes certified mail.

(t) "Majority in interest of all partners" means more than 50 percent of the interests of all partners.

(u) "Majority in interest of the limited partners" means more than 50 percent of the interests of limited partners.

(v) "Other business entity" means a corporation, general partnership, limited liability company, business trust, real estate investment trust, or an unincorporated association (other than a nonprofit association), but excluding a limited partnership.

(w) "Parent" of a specified limited partnership means each general partner of the limited partnership, each person possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of a general partner of the limited partnership, and a person owning, directly or indirectly, limited partnership interests possessing more than 50 percent of the aggregate voting power of the specified limited partnership.

(x) "Partner" means a limited or general partner. "Partner of record" means a partner named as a partner on the list maintained in accordance with subdivision (a) of Section 15615.

(y) "Partnership agreement" means any valid oral or written agreement of the partners as to the affairs of a limited partnership and the conduct of its business, including all amendments thereto. In

the event the partnership agreement consists of an oral agreement and a dispute arises concerning what the terms and conditions of the agreement are, the burden of proof shall be on the general partner or partners.

(z) "Person" means an individual, partnership, limited partnership (domestic or foreign), trust, estate, association, corporation, limited liability company, or other entity.

(aa) "Proxy" means a written authorization signed by a partner or the partner's attorney in fact giving another person the power to vote with respect to the interest of that partner. "Signed," for the purpose of this section, means the placing of the partner's name on the proxy (whether by manual signature, typewriting, telegraphic transmission, or otherwise) by the partner or partner's attorney in fact.

(ab) "Return of capital" means any distribution to a partner to the extent that the partner's capital account, immediately after the distribution, is less than the amount of that partner's contributions to the partnership as reduced by prior distributions which were a return of capital.

(ac) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(ad) "Surviving limited partnership" means a limited partnership into which one or more other limited partnerships or other business entities are merged.

(ae) "Surviving other business entity" means an other business entity into which one or more limited partnerships are merged.

(af) "Time a notice is given or sent," unless otherwise expressly provided, means the time a written notice to a partner or the limited partnership is deposited in the United States mails; or the time any other written notice is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient; or the time any oral notice is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the recipient.

(ag) (1) "Transact intrastate business" means entering into repeated and successive transactions of business in this state, other than interstate or foreign commerce.

(2) A foreign limited partnership shall not be considered to be transacting intrastate business merely because of its status as any one or more of the following:

(A) A shareholder of a foreign corporation transacting intrastate business.

(B) A shareholder of a domestic corporation.

(C) A limited partner of a foreign limited partnership transacting intrastate business.

(D) A limited partner of a domestic limited partnership.

(E) A member or manager of a foreign limited liability company transacting intrastate business.

(F) A member or manager of a domestic limited liability company.

(3) Without excluding other activities that may not constitute transacting intrastate business, a foreign limited partnership shall not be considered to be transacting intrastate business within the meaning of paragraph (1) solely by reason of carrying on in this state any one or more of the following activities:

(A) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims and disputes.

(B) Holding meetings of its partners or carrying on other activities concerning its internal affairs.

(C) Maintaining bank accounts.

(D) Maintaining offices or agencies for the transfer, exchange, and registration of its securities or depositaries with relation to its securities.

(E) Effecting sales through independent contractors.

(F) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where the orders require acceptance without this state before becoming binding contracts.

(G) Creating or acquiring evidences of debt, or mortgages, liens, or security interests on real or personal property.

(H) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.

(I) Conducting an isolated transaction completed within a period of 180 days and not in the course of a number of repeated transactions of like nature.

(4) A person shall not be deemed to be transacting intrastate business in this state merely because of the person's status as a limited partner of a domestic limited partnership or a foreign limited partnership registered to transact intrastate business in this state.

SEC. 69. Section 15617 of the Corporations Code is amended to read:

15617. A partner may lend money to and transact other business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.

SEC. 70. Section 15622 of the Corporations Code is amended to read:

15622. (a) A certificate of limited partnership is amended by filing a certificate of amendment thereto executed and acknowledged as provided in Section 15624. The certificate of amendment shall be filed in the office of, and on a form prescribed by, the Secretary of State. The certificate of amendment shall set forth all of the following:

(1) The name and the Secretary of State's file number of the limited partnership.

(2) The text of the amendment to the certificate.

(b) The general partners shall cause to be filed, within 30 days after the happening of any of the following events, an amendment to a certificate of limited partnership reflecting the occurrence of any of the following events:

(1) A change in name of the limited partnership.

(2) A change in the street address of the principal executive office.

(3) A change in the address of a general partner or a change in the address of the agent for service of process, unless a corporate agent is designated, or appointment of a new agent for service of process.

(4) The admission of a general partner. Any amendment filed pursuant to this paragraph shall set forth the address of the admitted general partner.

(5) The cessation of a general partner to be a general partner.

(6) The discovery by any of the general partners of any false or erroneous material statement contained in the certificate or any amendment thereto.

(c) In the event a person other than a general partner is authorized to wind up the affairs of the limited partnership, whether as a result of the withdrawal of all general partners or otherwise, then upon dissolution of the limited partnership the certificate of limited partnership shall be amended to add the name and the business, residence, or mailing address of each person winding up the limited partnership's affairs.

(d) A certificate of limited partnership may also be amended at any time in any other respect that the general partners determine.

(e) (1) A certificate, entitled "Restated Certificate of Limited Partnership," may be filed that embodies in a single certificate all of the provisions that are in effect contained in the different certificates that have been filed with the Secretary of State pursuant to this article.

(2) A restated certificate of limited partnership may include an amendment of the certificate of limited partnership not previously filed with the Secretary of State.

(3) The restated certificate of limited partnership shall supersede the initial certificate of limited partnership and all amendments thereto previously filed with the Secretary of State.

(4) Any amendment effected in connection with the restatement of the certificate of limited partnership shall be subject to any other provision of this chapter, not inconsistent with this section, that would apply if a separate certificate of amendment were filed to effect that amendment.

SEC. 71. Section 15623 of the Corporations Code is amended to read:

15623. (a) (1) The person authorized to execute the certificate of dissolution pursuant to Section 15624 shall cause to be filed in the office of, and on a form prescribed by, the Secretary of State, a

certificate of dissolution upon the dissolution of the limited partnership pursuant to Article 8 (commencing with Section 15681).

(2) The certificate of dissolution shall set forth all of the following:

(A) The name of the limited partnership and the Secretary of State's file number.

(B) The event causing, and the date of, the dissolution.

(C) Any other information the partners filing the certificate of dissolution determine to include.

(b) (1) The person authorized to execute the certificate of cancellation pursuant to Section 15624 shall cause to be filed in the office of, and on a form prescribed by, the Secretary of State, a certificate of cancellation of certificate of limited partnership upon the completion of the winding up of the affairs of the limited partnership, pursuant to Article 8 (commencing with Section 15681).

(2) The certificate of cancellation of certificate of limited partnership shall set forth all of the following:

(A) The name of the limited partnership and the Secretary of State's file number.

(B) Any other information the partners filing the certificate of cancellation of certificate of limited partnership determine to include.

(c) (1) Notwithstanding the filing of a certificate of dissolution, the general partners may cause to be filed, in the office of, and on a form prescribed by, the Secretary of State, a certificate of continuation, in any of the following circumstances:

(A) The business of the partnership is to be continued pursuant to the written consent of all partners.

(B) The dissolution of the partnership was by written consent of the partners pursuant to subdivision (b) of Section 15681 and each partner who consented to the dissolution has agreed in writing to revoke the partner's consent to the dissolution.

(C) The partnership was not, in fact, dissolved.

(2) The certificate of continuation shall set forth all of the following:

(A) The name of the limited partnership and the Secretary of State's file number.

(B) The grounds provided by paragraph (1) that are the basis for filing the certificate of continuation.

(3) Upon the filing of a certificate of continuation, the certificate of dissolution shall be of no effect from the time of the filing of the certificate of dissolution except to the extent provided in subdivision (c) of Section 15624.

SEC. 72. Section 15624 of the Corporations Code is amended to read:

15624. (a) Each certificate required by this article to be filed in the office of the Secretary of State shall be executed in the following manner:

(1) A certificate referred to in Section 15621 shall be executed by all general partners, unless filed by a limited partner pursuant to

Section 15633, or by any person authorized pursuant to subdivision (a) of Section 15625.

(2) A certificate of amendment shall be executed by all general partners (or a lesser number provided in the certificate of limited partnership) and by each general partner designated in the certificate as a new partner, provided that:

(A) If the amendment states the cessation of a general partner to be a general partner, it need not be signed by that former general partner. Notwithstanding the foregoing, if the general partner or partners required by this paragraph to execute the amendment fail after demand to do so within a reasonable time or refuse to do so, or if there are no remaining general partners and the limited partners winding up the limited partnership's affairs fail after demand to execute the amendment within a reasonable time or refuse to do so, it may be executed by that former general partner.

(B) If the amendment is filed pursuant to subdivision (c) of Section 15622, it shall be executed by each person authorized to wind up the limited partnership's affairs and it need not be signed by any former general partner or any general partner not winding up the limited partnership's affairs.

(3) A certificate of dissolution shall be executed by all general partners (or a lesser number provided in the certificate of limited partnership). However, if the limited partners are winding up the limited partnership affairs, a certificate of dissolution shall be executed by the person authorized by a majority in interest of the limited partners.

(4) A certificate of cancellation of certificate of limited partnership shall be executed by all general partners (or a lesser number provided in the certificate of limited partnership). However, if the limited partners are winding up the limited partnership affairs, a certificate of cancellation of certificate of limited partnership shall be executed by the person authorized by a majority in interest of the limited partners.

(5) A certificate of continuation shall be executed by all general partners (or a lesser number provided in the certificate of limited partnership).

(6) A certificate of merger shall be executed by all general partners of each domestic constituent limited partnership (or a lesser number as provided in the certificate of limited partnership of the constituent limited partnership) and by one or more general partners of each foreign constituent limited partnership. In the event of a merger with an other business entity, the certificate of merger shall be executed by all general partners, or a lesser number provided in the limited partnership certificate, of each domestic constituent limited partnership and by one or more general partners of the foreign constituent limited partnership or by the person authorized by an other business entity.

(7) A certificate filed by a limited partner pursuant to Section 15633 shall be signed by the limited partner.

(8) A restated certificate of limited partnership shall be executed as any other certificate of amendment under paragraph (2) of subdivision (a).

(b) Any person may execute any certificate referred to in this section by an attorney in fact.

(c) Any general partner, or any limited partner executing a certificate pursuant to Section 15633, shall be liable for any statement materially inconsistent with the partnership agreement or any material misstatement of fact contained in the certificate if the partner knew or should have known that the statement was false when made and an amendment required by subdivision (b) of Section 15622 was not filed, and the person suffering the loss relied on the statement or misstatement. Any general partner shall be liable for any statement materially inconsistent with the partnership agreement or any material misstatement of fact contained in the certificate if the general partner knew or should have known that the statement became false and an amendment required by Section 15622 was not filed, and the person suffering the loss relied on the statement or misstatement.

(d) Except as otherwise provided in Section 15642, no person has any liability because an amendment to a certificate of limited partnership has not been filed to reflect the occurrence of any event referred to in subdivision (b) of Section 15622 if the amendment is filed within the time specified in subdivision (b) of Section 15622.

(e) Except as provided in subdivision (c), no limited partner shall incur any liability for any misstatement contained in the certificate or for failure to file an amendment to a certificate of limited partnership pursuant to subdivision (b) of Section 15622.

(f) No person other than a general partner shall be subject to liability as a general partner by reason of having executed and filed a certificate of amendment required by subdivision (c) of Section 15622, a certificate of dissolution pursuant to Section 15623, or a certificate of cancellation of certificate of limited partnership pursuant to Section 15623.

SEC. 73. Section 15625 of the Corporations Code is amended to read:

15625. (a) If a general partner required by this article to execute or file a certificate of limited partnership fails after demand to do so within a reasonable time or refuses to do so, any other partner, or any person appointed by a court of competent jurisdiction, may prepare, execute, and file with the Secretary of State a certificate of limited partnership.

(b) If a general partner required by this article to execute any certificate fails to do so within a reasonable time or refuses to do so, or if there is any dispute concerning the filing of a certificate of amendment, a certificate of continuation, a certificate of dissolution, or a certificate of cancellation of limited partnership, or the failure to file any of those certificates, any partner may petition the superior court to direct the execution of the certificate. If the court finds that

it is proper for the certificate to be executed and that any person so designated has failed or refused to execute the certificate, or if the court determines that any certificate should be filed, it shall order a party to file a certificate on the appropriate form prescribed by the Secretary of State, as ordered by the court. In any action under this subdivision, if the court finds the failure of the general partner to comply with the requirement to file any certificate to have been without justification, the court may award an amount sufficient to reimburse the partners bringing the action for the reasonable expenses incurred by the partners, including attorneys' fees, in connection with the action or proceeding.

(c) Any person, other than a general partner, filing any certificate under this chapter, shall state the statutory authority after the signature on the appropriate certificate.

SEC. 74. Section 15631 of the Corporations Code is amended to read:

15631. (a) After the filing of a certificate referred to in Section 15621, a person may become a limited partner:

(1) In the case of a person acquiring a limited partnership interest directly from the limited partnership, upon compliance with the partnership agreement or, if the partnership agreement does not so provide, upon the written consent of all of the partners.

(2) In the case of an assignee of a partnership interest, upon compliance with subdivision (a) of Section 15674 and at the time provided in and upon compliance with the partnership agreement or, if the partnership agreement does not so provide, when the person's permitted admission is reflected in the records of the limited partnership in accordance with subdivision (b).

(b) In each case under subdivision (a), the person acquiring the partnership interest shall be added by the general partners as a limited partner to the list required by subdivision (a) of Section 15615.

SEC. 75. Section 15632 of the Corporations Code is amended to read:

15632. (a) A limited partner is not liable for any obligation of a limited partnership unless named as a general partner in the certificate or, in addition to the exercise of the rights and powers of a limited partner, the limited partner participates in the control of the business. If a limited partner participates in the control of the business without being named as a general partner, that partner may be held liable as a general partner only to persons who transact business with the limited partnership with actual knowledge of that partner's participation in control and with a reasonable belief, based upon the limited partner's conduct, that the partner is a general partner at the time of the transaction. Nothing in this chapter shall be construed to affect the liability of a limited partner to third parties for the limited partner's participation in tortious conduct.

(b) A limited partner does not participate in the control of the business within the meaning of subdivision (a) solely by doing,

attempting to do, or having the right or power to do, one or more of the following:

(1) Being (A) an independent contractor for or an agent or employee of, or transacting business with, the limited partnership or a general partner of the limited partnership, (B) an officer, director, or shareholder of a corporate general partner of the limited partnership, (C) a member, manager, or officer of a limited liability company that is a general partner of the limited partnership, (D) a limited partner of a partnership that is a general partner of the limited partnership, (E) a trustee, administrator, executor, custodian, or other fiduciary or beneficiary of an estate or trust that is a general partner, or (F) a trustee, officer, advisor, shareholder, or beneficiary of a business trust that is a general partner.

(2) Consulting with and advising a general partner with respect to the business of the limited partnership.

(3) Acting as surety for the limited partnership or for a general partner, guaranteeing one or more specific debts of the limited partnership, or providing collateral for the limited partnership or general partner, or borrowing money from the limited partnership or a general partner, or lending money to the limited partnership or a general partner.

(4) Approving or disapproving an amendment to the partnership agreement.

(5) Voting on, proposing, or calling a meeting of the partners for one or more of the matters described in subdivision (f) of Section 15636.

(6) Winding up the partnership pursuant to Section 15683.

(7) Executing and filing a certificate pursuant to Section 15625 or a certificate of dissolution pursuant to paragraph (3) of subdivision (a) of Section 15624 or a certificate of cancellation of certificate of limited partnership pursuant to paragraph (4) of subdivision (a) of Section 15624.

(8) Serving on an audit committee or committee performing the functions of an audit committee.

(9) Serving on a committee of the limited partnership or the limited partners for the purpose of approving actions of the general partner.

(10) Calling, requesting, attending, or participating at any meeting of the partners or the limited partners.

(11) Taking any action required or permitted by law to bring, pursue, settle, or terminate a derivative action on behalf of the limited partnership.

(12) Serving on the board of directors or a committee of, consulting with or advising, being or acting as an officer, director, stockholder, partner, member, manager, agent, or employee of, or being or acting as a fiduciary for, any person in which the limited partnership has an interest.

(13) Exercising any right or power permitted to limited partners under this chapter and not specifically enumerated in this

subdivision.

(c) The enumeration in subdivision (b) does not mean that any other conduct or the possession or exercise of any other power by a limited partner constitutes participation by the limited partner in the control of the business of the limited partnership.

SEC. 76. Section 15633 of the Corporations Code is amended to read:

15633. (a) Except as provided in subdivision (b), if a certificate of limited partnership has not been filed, a person who makes a contribution to the purported limited partnership and in good faith believes that that person has become a limited partner is not liable for the obligations of the purported limited partnership, if, on ascertaining that the certificate has not been filed and after a failure of the general partner or partners to file the certificate within a reasonable time after request, that person promptly files the certificate of limited partnership. A limited partner executing and filing a certificate of limited partnership shall send a copy of the certificate so filed to each general partner at the general partner's last known address.

(b) A person who makes a contribution to the purported limited partnership and in good faith believes that that person has become a limited partner is liable only to any third party who transacted business with the purported limited partnership before the certificate is filed and who reasonably believed that the person was a general partner at the time of the transaction.

SEC. 77. Section 15636 of the Corporations Code is amended to read:

15636. The rights and duties of the partners in relation to the limited partnership shall be determined by the following rules:

(a) No limited partner shall be required to make any additional contribution to the limited partnership.

(b) Except for distributions made pursuant to Section 15664, no limited partner shall have a priority over any other limited partner, as to return of contributions or as to compensation as a limited partner by way of income.

(c) The obligation of a partner to make a contribution or return money or property distributed in violation of this chapter may be compromised only by the written consent of all the partners.

(d) No limited partner shall have the right to receive property other than money upon any distribution.

(e) A partner may not be compelled to accept a distribution of any asset in kind from a limited partnership in lieu of a proportionate distribution of money being made to other partners.

(f) With respect to any of the following matters upon which the limited partners shall have the right to vote, the limited partners also shall have the right in accordance with Section 15637 to call and give notice of meetings and to prepare and solicit written consents:

(1) The limited partners shall have the right to vote on the following matters, and the actions specified herein may be taken only

by the general partners and then only with the affirmative vote of a majority in interest of the limited partners:

(A) The dissolution and winding up of the limited partnership.

(B) The merger of the limited partnership or the sale, exchange, lease, mortgage, pledge, or other transfer of, or the granting of a security interest in, all or a substantial part of the assets of the limited partnership other than in the ordinary course of its business.

(C) The incurrence of indebtedness by the limited partnership other than in the ordinary course of its business.

(D) A change in the nature of the business.

(E) Transactions in which the general partners have an actual or potential conflict of interest with the limited partners or the partnership.

(F) An election to continue the business of the limited partnership other than under the circumstances described in paragraph (3).

(G) The admission of a general partner other than under the circumstances described in paragraph (3); provided, that notwithstanding any other provision of this chapter or any provision of the partnership agreement to the contrary, the action specified in this subparagraph may only be taken with the affirmative vote of a majority in interest of the limited partners or the greater interest provided in the partnership agreement.

(2) The limited partners shall have the right to vote on the removal of a general partner, and that action shall be effective without further action upon the vote or written consent of a majority in interest of all partners and, if that action is taken by written consent, written notice to the general partners (including any general partner being removed) that the action has been taken. Any such notice shall be given in the same manner as described in subdivision (c) of Section 15637.

(3) The limited partners shall have the right to vote on the admission of a general partner or an election to continue the business of the limited partnership after a general partner ceases to be a general partner where there is no remaining or surviving general partner; provided that, notwithstanding any other provision of this chapter or any provision of the partnership agreement to the contrary, that action may only be taken by the affirmative vote of a majority in interest of the limited partners or the greater interest provided in the partnership agreement.

(4) The limited partners shall have the right to vote on the following matters, and the actions specified therein shall require the affirmative vote of those partners as shall be provided under the partnership agreement:

(A) With respect to a limited partnership that is registered as an investment company under the Investment Company Act of 1940, as amended, or the rules and regulations of the Securities and Exchange Commission under that act, any matter to be approved by the holders of beneficial interests in an investment company, including

the electing of directors or trustees of the investment company, the approving or terminating of investment advisory or underwriting contracts, and the approving of auditors.

(B) Matters related to the business of the limited partnership not otherwise enumerated in this subdivision, which the partnership agreement states in writing may be subject to the approval or disapproval of limited partners.

SEC. 78. Section 15637 of the Corporations Code is amended to read:

15637. (a) Meetings of partners may be held at any place within or without this state selected by the person or persons calling the meeting or as may be stated in or fixed in accordance with the partnership agreement. If no other place is stated or so fixed, partners' meetings shall be held at the principal executive office of the partnership.

(b) A meeting of the partners may be called by any of the general partners or by limited partners representing more than 10 percent of the interests of limited partners for any matters on which the limited partners may vote.

(c) (1) Whenever partners are required or permitted to take any action at a meeting, a written notice of the meeting shall be given not less than 10, nor more than 60, days before the date of the meeting to each partner entitled to vote at the meeting. The notice shall state the place, date, and hour of the meeting and the general nature of the business to be transacted, and no other business may be transacted.

(2) Notice of a partners' meeting or any report shall be given either personally or by mail or other means of written communication, addressed to the partner at the address of the partner appearing on the books of the partnership or given by the partner to the partnership for the purpose of notice, or, if no address appears or is given, at the place where the principal executive office of the partnership is located or by publication at least once in a newspaper of general circulation in the county in which the principal executive office is located. The notice or report shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by other means of written communication. An affidavit of mailing of any notice or report in accordance with the provisions of this article, executed by a general partner, shall be prima facie evidence of the giving of the notice or report.

If any notice or report addressed to the partner at the address of the partner appearing on the books of the partnership is returned to the partnership by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice or report to the partner at the address, all future notices or reports shall be deemed to have been duly given without further mailing if they are available for the partner at the principal executive office of the partnership for a period of one year from the date of the giving of the notice or report to all other partners.

(3) Upon written request to the general partners by any person entitled to call a meeting of partners, the general partners immediately shall cause notice to be given to the partners entitled to vote that a meeting will be held at a time requested by the person calling the meeting, not less than 10, nor more than 60, days after the receipt of the request. If the notice is not given within 20 days after receipt of the request, the person entitled to call the meeting may give the notice or, upon the application of that person, the superior court of the county in which the principal executive office of the limited partnership is located, or if the principal executive office is not in this state, the county in which the limited partnership's address in this state is located, shall summarily order the giving of the notice, after notice to the partnership giving it an opportunity to be heard. The procedure provided in subdivision (c) of Section 305 of the Corporations Code shall apply to the application. The court may issue any order as may be appropriate, including, without limitation, an order designating the time and place of the meeting, the record date for determination of partners entitled to vote, and the form of notice.

(d) When a partners' meeting is adjourned to another time or place, except as provided in this subdivision, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting the partnership may transact any business which might have been transacted at the original meeting. If the adjournment is for more than 45 days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each partner of record entitled to vote at the meeting.

(e) The transactions of any meeting of partners, however called and noticed, and wherever held, are as valid as though had at a meeting duly held after regular call and notice, if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All waivers, consents, and approvals shall be filed with the partnership records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of the meeting, except when the person objects, at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by this chapter to be included in the notice but not so included, if the objection is expressly made at the meeting. Neither the business to be transacted at nor the purpose of any meeting of partners need be specified in any written waiver of notice, except as provided in subdivision (g).

(f) Partners may participate in a meeting of the partnership

through the use of conference telephones or similar communications equipment, so long as all partners participating in the meeting can hear one another. Participation in a meeting pursuant to this provision constitutes presence in person at that meeting.

(g) Any partner approval at a meeting, other than unanimous approval by those entitled to vote, shall be valid only if the general nature of the proposal so approved was stated in the notice of meeting or in any written waiver of notice.

(h) (1) A majority in interest of the limited partners represented in person or by proxy shall constitute a quorum at a meeting of partners.

(2) The partners present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough partners to leave less than a quorum, if any action taken (other than adjournment) is approved by the requisite percentage of interests of limited partners specified in this chapter.

(3) In the absence of a quorum, any meeting of partners may be adjourned from time to time by the vote of a majority of the interests represented either in person or by proxy, but no other business may be transacted, except as provided in paragraph (2).

(i) Any action that may be taken at any meeting of the partners may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by partners having not less than the minimum number of votes that would be necessary to authorize or take that action at a meeting at which all entitled to vote thereon were present and voted. In the event the limited partners are requested to consent on a matter without a meeting, each partner shall be given notice of the matter to be voted upon in the same manner as described in subdivision (c). In the event any general partner, or limited partners representing more than 10 percent of the interests of the limited partners, request a meeting for the purpose of discussing or voting on the matter, the notice of a meeting shall be given in accordance with subdivision (c) and no action shall be taken until the meeting is held. Unless delayed in accordance with the provisions of the preceding sentence, any action taken without a meeting will be effective 15 days after the required minimum number of voters have signed the consent, however, the action will be effective immediately if all general partners and limited partners representing at least 90 percent of the interests of the limited partners have signed the consent.

(j) The use of proxies in connection with this section will be governed in the same manner as in the case of corporations formed under the General Corporation Law.

(k) In order that the limited partnership may determine the partners of record entitled to notices of any meeting or to vote, or entitled to receive any distribution or to exercise any rights in respect of any other lawful action, the general partners, or limited partners representing more than 10 percent of the interests of

limited partners, may fix, in advance, a record date, which is not more than 60 or less than 10 days prior to the date of the meeting and not more than 60 days prior to any other action. If no record date is fixed:

(1) The record date for determining partners entitled to notice of or to vote at a meeting of partners shall be at the close of business on the business day next preceding the day on which notice is given or, if notice is waived, at the close of business on the business day next preceding the day on which the meeting is held.

(2) The record date for determining partners entitled to give consent to partnership action in writing without a meeting shall be the day on which the first written consent is given.

(3) The record date for determining partners for any other purpose shall be at the close of business on the day on which the general partners adopt it, or the 60th day prior to the date of the other action, whichever is later.

(4) The determination of partners of record entitled to notice of or to vote at a meeting of partners shall apply to any adjournment of the meeting unless the general partners, or the limited partners who called the meeting, fix a new record date for the adjourned meeting, but the general partners, or the limited partners who called the meeting, shall fix a new record date if the meeting is adjourned for more than 45 days from the date set for the original meeting.

SEC. 79. Section 15641 of the Corporations Code is amended to read:

15641. After the filing of a certificate referred to in Section 15621, a general partner may be admitted only with the written consent of each general partner, if any is remaining at the time, and the affirmative vote of limited partners as is required in accordance with the provisions of subdivision (f) of Section 15636.

SEC. 80. Section 15643 of the Corporations Code is amended to read:

15643. (a) Except as otherwise provided in this chapter, a general partner of a limited partnership has the rights and powers and is subject to the restrictions of a partner in a partnership without limited partners.

(b) Except as provided in this chapter, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other partners. Except as provided in this chapter, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners.

SEC. 81. Section 15644 of the Corporations Code is amended to read:

15644. A general partner of a limited partnership may make contributions to the limited partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions, and

share in the profits and losses and distributions, as a limited partner, if the general partner's interest as a limited partner is separately designated in the partnership agreement. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and also has the powers, and is subject to the restrictions, of a limited partner to the extent of his or her participation in the limited partnership as a limited partner.

SEC. 82. Section 15645 of the Corporations Code is amended to read:

15645. (a) A partnership agreement may provide for the creation of classes of general partners. The partnership agreement shall define the rights, powers, and duties of those classes including rights, powers, and duties senior to other classes of general partners.

(b) The partnership agreement may provide to all or certain specified classes of general partners the right to vote separately or with all or any class of the general partners on any matters.

SEC. 83. Section 15655 of the Corporations Code is amended to read:

15655. A partner is not excused from an obligation to the limited partnership to perform any promise to contribute cash or property or to perform services because of death, disability, or any other reason. If a partner does not make the required contribution of property or services, the partner is obligated at the option of the limited partnership to contribute cash equal to that portion of the fair market value (or the agreed value if stated in the partnership agreement) of the contribution that has not been made. The foregoing option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited partnership may have against that partner under the partnership agreement or applicable law.

SEC. 84. Section 15662 of the Corporations Code is amended to read:

15662. (a) A partnership agreement may provide that a general partner may withdraw from a limited partnership at the time or upon the happening of events specified in the partnership agreement or, that a general partner shall not have the right to withdraw as a general partner of a limited partnership. Notwithstanding any restrictions upon the right to withdraw of a general partner, a general partner may withdraw from a limited partnership at any time by giving written notice to the other partners. However, if the withdrawal violates the partnership agreement the limited partnership may recover from the withdrawing general partner damages for breach of the partnership agreement and, in addition to any other remedies, shall have the right to offset the damages against any amounts otherwise distributable to the general partner. In the case of a partnership for a fixed term, a withdrawal by a general partner prior to the expiration of that term is a breach of the partnership agreement.

(b) Subject to the liability created under subdivision (a), a general partner who ceases to be a general partner under Section 15642 shall:

(1) Retain the same interest in that partner's capital account and distributions, but that interest shall be that of a limited partner.

(2) Not be personally liable for partnership debts incurred after the person ceases to be a general partner, other than any debts incurred by reason of that person's being deemed to be acting as a general partner, pursuant to Section 15642.

(3) Be entitled to vote as a limited partner on all matters except the admission and compensation of a general partner.

(4) Have the partner's interest in profits, losses, and distributions reduced pro rata with all other partners to provide compensation, or an interest in the partnership, or both, to a new general partner.

SEC. 85. Section 15663 of the Corporations Code is amended to read:

15663. A limited partner may withdraw from a limited partnership only at the time or upon the happening of events specified in the partnership agreement.

SEC. 86. Section 15664 of the Corporations Code is amended to read:

15664. Upon withdrawal, any withdrawing limited partner is entitled to receive any distribution to which that partner is entitled under the partnership agreement and the limited partner is entitled to receive, within a reasonable time after withdrawal, the fair value of the limited partner's interest in the limited partnership as of the date of withdrawal based upon the limited partner's right to share in distributions from the limited partnership.

SEC. 87. Section 15666 of the Corporations Code is amended to read:

15666. (a) A partner is obligated to return a distribution from a limited partnership to the extent that at the time of the distribution the partner knew that immediately after giving effect to the distribution, and notwithstanding the compromise of a claim referred to in subdivision (c) of Section 15636, all liabilities of the limited partnership, other than liabilities to partners on account of their interest in the limited partnership and liabilities as to which recourse of creditors is limited to specified property of the limited partnership, exceed the fair value of the partnership assets, provided that the fair value of any property that is subject to a liability as to which recourse of creditors is so limited shall be included in the partnership assets only to the extent that the fair value of the property exceeds this liability.

(b) A cause of action with respect to an obligation to return a distribution pursuant to subdivision (a) is extinguished unless the action is brought within four years after the distribution is made.

SEC. 88. Section 15672 of the Corporations Code is amended to read:

15672. (a) A limited partnership interest is assignable in whole

or in part. An assignment of a limited partnership interest does not dissolve a limited partnership or, other than as set forth in this chapter, entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, the distributions and the allocations of income, gain, loss, deduction, credit, or similar item, to which the assignor would be entitled. Except as otherwise provided in the assignment, an assignee of a limited partnership interest in a limited partnership with over 100 limited partners also shall be entitled to all of the rights granted to a limited partner pursuant to Section 15634. A limited partner remains a partner upon assignment of all or part of the limited partner's limited partnership interest, with the rights that the assignee does not acquire or possess, subject to the assignee becoming a limited partner pursuant to subdivision (a) of Section 15674.

(b) The pledge of, or granting of a security interest, lien, or other encumbrance in or against any or all of the partnership interest of a partner shall not cause the partner to cease to be a partner or to grant to anyone else the power to exercise any rights or powers of a partner.

(c) A partnership agreement may provide that a general partner may not assign or encumber a partnership interest in a limited partnership.

SEC. 89. Section 15674 of the Corporations Code is amended to read:

15674. (a) An assignee of a partnership interest, including an assignee of a general partner, may become a limited partner if and to the extent that (1) the partnership agreement so provides or (2) all partners consent.

(b) An assignee who has become a limited partner has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a limited partner under the partnership agreement and this chapter. An assignee who becomes a limited partner also is liable for the obligations of the assignor to make contributions as provided in Article 5 (commencing with Section 15651). However, the assignee is not obligated for liabilities unknown to the assignee at the time the assignee became a limited partner and which could not be ascertained from the partnership agreement.

(c) If an assignee of a limited partnership interest becomes a limited partner, the assignor is not released from the assignor's liability to the limited partnership under subdivision (c) of Section 15624, and Sections 15652 and 15666.

(d) If the general partner assigns all of the general partner's interest in the partnership to a third party, a majority in interest of the limited partners may remove that general partner.

SEC. 90. Section 15675 of the Corporations Code is amended to read:

15675. (a) If a limited partner who is an individual dies or a court of competent jurisdiction adjudges the limited partner to be

incompetent to manage the limited partner's person or property, the partner's executor, administrator, guardian, conservator, or other legal representative may exercise all the partner's rights for the purpose of settling the partner's estate or administering the partner's property.

(b) If a limited partner is a corporation, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

SEC. 91. Section 15681 of the Corporations Code is amended to read:

15681. A limited partnership is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following:

(a) At the time or upon the happening of events specified in the partnership agreement.

(b) Except as otherwise provided in the partnership agreement, written consent of all general partners and a majority in interest of the limited partners.

(c) A general partner ceases to be a general partner under Section 15642, unless (1) at the time there is at least one other general partner and the partnership agreement permits the business of the limited partnership to be continued by the remaining general partner or partners, if any, and the partner or partners do so, or (2) at the time there is no remaining general partner and a majority in interest of the limited partners or the greater interest provided in the partnership agreement agree in writing to continue the business of the limited partnership and, within six months after the last remaining general partner has ceased to be a general partner, to admit one or more general partners.

(d) Entry of a decree of judicial dissolution under Section 15682.

SEC. 92. Section 24000 of the Corporations Code is amended to read:

24000. (a) As used in this part, "unincorporated association" means any partnership or other unincorporated organization of two or more persons, whether organized for profit or not, but does not include a government or governmental subdivision or agency.

(b) As used in this section, "person" includes a natural person, corporation, partnership or any other unincorporated organization, limited liability company, and a government or governmental subdivision or agency.

SEC. 93. Section 29001 of the Corporations Code is amended to read:

29001. "Person" means an individual, partnership, corporation, limited liability company, or association, either domestic or foreign, whether acting in his or her own right or as the officer, agent, servant, employee, correspondent, or representative of another or as trustee.

SEC. 94. Section 29514 of the Corporations Code is amended to read:

29514. "Person" means an individual, a corporation, a

partnership, a limited liability company, an association, a joint stock company, a trust, an unincorporated organization, a government, or a political subdivision of a government.

SEC. 95. Section 31015 of the Corporations Code is amended to read:

31015. "Person" means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust or an unincorporated organization.

SEC. 96. Section 32380 of the Education Code is amended to read:

32380. As used in this article:

(a) "Person" means any individual, partnership, corporation, limited liability company, association, firm, or public board, agency, or entity.

(b) "Prepare" means to put into condition for intended use.

(c) "Degree" means any "academic degree" or "honorary degree" or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor, or fellow which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study or is an honorary title conferred for recognition of some meritorious achievement.

(d) "Diploma" means any diploma, certificate, transcript, document, or other writing in any language other than a degree representing that an individual has completed any course of study.

SEC. 97. Section 66405 of the Education Code is amended to read:

66405. As used in this chapter, "person" means any individual, partnership, corporation, limited liability company, or association.

As used in this chapter, "prepare" means to put into condition for intended use. "Prepare" does not include the mere typing or assembling of papers, nor the mere furnishing of information or research.

SEC. 98. Section 3564.1 of the Elections Code is amended to read:

3564.1. A ballot argument or a rebuttal argument which includes in its text the name or title of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of that person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, limited liability company, association, committee, labor organization, and any other organization or group of persons.

SEC. 99. Section 3785.1 of the Elections Code is amended to read:

3785.1. A ballot argument or a rebuttal argument which includes in its text the name or title of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed

consent of that person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, limited liability company, association, committee, labor organization, and any other organization or group of persons.

SEC. 100. Section 5014.1 of the Elections Code is amended to read:

5014.1. A ballot argument or, if applicable, a rebuttal argument which includes in its text the name or title of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of that person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, limited liability company, association, committee, labor organization, and any other organization or group of persons.

SEC. 101. Section 5157.6 of the Elections Code is amended to read:

5157.6. A ballot argument or a rebuttal argument which includes in its text the name or title of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of that person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, limited liability company, association, committee, labor organization, and any other organization or group of persons.

SEC. 102. Section 5326 of the Elections Code is amended to read:

5326. A ballot argument or a rebuttal argument which includes in its text the name or title of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent of that person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, limited liability company, association, committee, labor organization, and any other organization or group of persons.

SEC. 103. Section 175 of the Evidence Code is amended to read:

175. "Person" includes a natural person, firm, association, organization, partnership, business trust, corporation, limited liability company, or public entity.

SEC. 104. Section 954 of the Evidence Code is amended to read:

954. Subject to Section 912 and except as otherwise provided in this article, the client, whether or not a party, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential

communication between client and lawyer if the privilege is claimed by:

(a) The holder of the privilege;

(b) A person who is authorized to claim the privilege by the holder of the privilege; or

(c) The person who was the lawyer at the time of the confidential communication, but such person may not claim the privilege if there is no holder of the privilege in existence or if he is otherwise instructed by a person authorized to permit disclosure.

The relationship of attorney and client shall exist between a law corporation as defined in Article 10 (commencing with Section 6160) of Chapter 4 of Division 3 of the Business and Professions Code and the persons to whom it renders professional services, as well as between such persons and members of the State Bar employed by such corporation to render services to such persons. The word "persons" as used in this subdivision includes partnerships, corporations, limited liability companies, associations and other groups and entities.

SEC. 105. Section 994 of the Evidence Code is amended to read:

994. Subject to Section 912 and except as otherwise provided in this article, the patient, whether or not a party, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between patient and physician if the privilege is claimed by:

(a) The holder of the privilege;

(b) A person who is authorized to claim the privilege by the holder of the privilege; or

(c) The person who was the physician at the time of the confidential communication, but such person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure.

The relationship of a physician and patient shall exist between a medical or podiatry corporation as defined in the Medical Practice Act and the patient to whom it renders professional services, as well as between such patients and licensed physicians and surgeons employed by such corporation to render services to such patients. The word "persons" as used in this subdivision includes partnerships, corporations, limited liability companies, associations, and other groups and entities.

SEC. 106. Section 1014 of the Evidence Code is amended to read:

1014. Subject to Section 912 and except as otherwise provided in this article, the patient, whether or not a party, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between patient and psychotherapist if the privilege is claimed by:

(a) The holder of the privilege.

(b) A person who is authorized to claim the privilege by the holder of the privilege.

(c) The person who was the psychotherapist at the time of the confidential communication, but such person may not claim the privilege if there is no holder of the privilege in existence or if he or she is otherwise instructed by a person authorized to permit disclosure.

The relationship of a psychotherapist and patient shall exist between a psychological corporation as defined in Article 9 (commencing with Section 2995) of Chapter 6.6 of Division 2 of the Business and Professions Code, a marriage, family, and child counseling corporation as defined in Article 6 (commencing with Section 4987.5) of Chapter 13 of Division 2 of the Business and Professions Code, or a licensed clinical social workers corporation as defined in Article 5 (commencing with Section 4998) of Chapter 14 of Division 2 of the Business and Professions Code, and the patient to whom it renders professional services, as well as between those patients and psychotherapists employed by those corporations to render services to those patients. The word "persons" as used in this subdivision includes partnerships, corporations, limited liability companies, associations and other groups and entities.

SEC. 107. Section 105 of the Family Code is amended to read:

105. "Person" includes a natural person, firm, association, organization, partnership, business trust, corporation, limited liability company, or public entity.

SEC. 108. Section 18 of the Financial Code is amended to read:

18. "Person" includes any person, firm, partnership, association, corporation, company, limited liability company, syndicate, estate, trust, business trust, or organization of any kind.

SEC. 109. Section 113 of the Financial Code is amended to read:

113. "Person" means an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, limited liability company, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

SEC. 110. Section 700 of the Financial Code is amended to read:

700. Unless the context otherwise requires, in this article:

(a) "Bank" means a bank organized under the laws of this state.

(b) "Control" means possession, direct or indirect, of the power:

(1) To vote 25 percent or more of any class of the voting securities issued by a person; or

(2) To direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or nonmanagement services), or otherwise; provided, however, that no individual shall be deemed to control a person solely on account of being a director, officer, or employee of such person.

For purposes of paragraph (2) of this subdivision, a person who, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the then outstanding voting securities issued by another person is presumed

to control such other person.

For purposes of this article, the superintendent may determine whether a person in fact controls another person.

(c) "Controlling person" means a person who, directly or indirectly, controls a bank.

(d) "Person" means an individual, a corporation, an association, a syndicate, a partnership, a limited liability company, a business trust, an estate, a trust, or an organization of any kind, or any combination of any of the foregoing acting in concert.

(e) "Shareholder" means:

(1) In the case of a corporation, a holder of a share of any class or series.

(2) In the case of a nonprofit or charitable corporation, an unincorporated association, or a syndicate, a member.

(3) In the case of a partnership, a partner.

(4) In the case of a business trust, an estate, or a trust, a holder of a beneficial interest.

(5) In the case of an organization of any other kind, a holder of an ownership interest.

SEC. 111. Section 1755 of the Financial Code is amended to read:

1755. (a) A foreign (other nation) bank which is licensed to maintain an agency or branch office may transact commercial banking business at such office, subject to the following:

(1) In case the office is a nondepositary agency, the bank shall not transact the business of accepting deposits.

(2) In case the office is a depositary agency, the bank shall not transact the business of accepting any deposits other than deposits of (A) a foreign nation, (B) an agency or instrumentality of a foreign nation, or (C) a person which resides, is domiciled, and maintains its principal place of business in a foreign nation. For purposes of this paragraph "person" means any individual, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, corporation, limited liability company, or any other organization or any branch or division thereof.

(3) In case the office is a limited branch office, the bank shall not transact the business of accepting any deposits other than (A) deposits of the kind described in paragraph (2), or (B) deposits which the bank is permitted to accept pursuant to the agreement or undertaking that it enters into with the Board of Governors of the Federal Reserve System in accordance with Section 5(a)(2)(B) of the International Banking Act of 1978.

(4) In case the office is a wholesale branch office, the bank shall not transact the business of accepting any deposits other than (A) deposits of the kind described in paragraph (2), (B) deposits of one hundred thousand dollars ($100,000) or more, or (C) deposits the acceptance of which the superintendent determines by regulation or order do not constitute engaging in domestic retail deposit activities requiring deposit insurance protection.

(5) In case the office is an agency, limited branch office, or

wholesale branch office, the bank may, subject to such regulations as the superintendent may prescribe, maintain credit balances.

(6) In any case, the bank shall not transact any business which it is not authorized to transact or is prohibited from transacting under the laws of its domicile or which commercial banks organized under the laws of this state are not authorized to transact or are prohibited from transacting.

(b) No foreign (other nation) bank which is licensed to maintain an agency or branch office shall transact any trust business at such office except as permitted under Section 1503.

SEC. 112. Section 1852 of the Financial Code is amended to read:

1852. Unless the context otherwise requires, the definitions set forth in this section govern the construction of this chapter:

(a) "Agent" means any person authorized by a licensee to sell travelers checks in this state on behalf of such licensee.

(b) "Business day" means any day other than Saturday, Sunday or any other day which is specified or provided for as a holiday in the Government Code.

(c) "Eligible security" has the meaning set forth in subdivision (a) of Section 1876.1.

(d) (1) "Foreign currency" means any currency other than United States currency.

(2) "Foreign currency," when used with respect to any travelers check, means a travelers check which is denominated in a foreign currency.

(e) "Licensee" means a person duly licensed by the superintendent pursuant to this chapter to issue travelers checks.

(f) "Outstanding travelers checks" means travelers checks sold in the United States and reported to licensee.

(g) (1) "Payment instrument" means:

(A) Any instrument (whether or not negotiable) for the transmission or payment of money which is designated on its face by the term "money order" or by any substantially similar term; or

(B) Any check, draft, or other instrument (whether or not negotiable) for the transmission or payment of money, if sold to a natural person and payable on demand.

(2) Notwithstanding the provisions of subparagraph (B) of paragraph (1) of this subdivision, "payment instrument" does not include:

(A) Any travelers check;

(B) Any credit card voucher;

(C) Any letter of credit; or

(D) Any instrument which is redeemable by the issuer in goods or services.

(h) "Person" means any individual, partnership, unincorporated association, limited liability company, or corporation.

(i) "Superintendent" means the Superintendent of Banks.

(j) "Travelers check" means an instrument for the payment of money which:

(1) Is designated on its face by the term "travelers check" or by any substantially similar term or is commonly known and marketed as a travelers check by a corporation licensed as an issuer of travelers checks in this state on or prior to January 1, 1978, and not also by the term "money order" or by any substantially similar term;

(2) (A) If issued in United States currency, is in the sum of ten dollars ($10) or a whole multiple thereof, if less than one hundred dollars ($100), or in the sum of one hundred dollars ($100) or a whole multiple thereof;

(B) If issued in any foreign currency, is in an even denomination of such currency;

(3) Contains a provision for a specimen signature of the purchaser to be completed at the time of purchase, and

(4) Contains a provision for a countersignature of the purchaser to be completed at the time of negotiation.

(k) "United States currency", when used with respect to any travelers check, means a travelers check which is denominated in United States currency.

SEC. 113. Section 5113 of the Financial Code is amended to read:

5113. "Person" means any individual, domestic, or foreign corporation, entity, voting trust, business trust, partnership, limited liability company, association, syndicate, organized group of persons, or similar organization, group or entity, whether incorporated or not.

SEC. 114. Section 17002.5 of the Financial Code is amended to read:

17002.5. "Person" means, in addition to the singular, persons, group of persons, co-operative, association, company, firm, partnership, corporation, limited liability company, or other legal entity.

SEC. 115. Section 22008.1 of the Financial Code is amended to read:

22008.1. "Person" means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust, an unincorporated organization, a government, or a political subdivision of a government.

SEC. 116. Section 24008.1 of the Financial Code is amended to read:

24008.1. "Person" means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust, an unincorporated organization, a government, or a political subdivision of a government.

SEC. 117. Section 26008.1 of the Financial Code is amended to read:

26008.1. "Person" means an individual, a corporation, a partnership, a limited liability company, a joint venture, an association, a joint stock company, a trust, an unincorporated organization, a government, or a political subdivision of a

government.

SEC. 118. Section 30003 of the Financial Code is amended to read:

30003. "Person" means, in addition to the singular, persons, group of persons, cooperative, association, company, firm, partnership, corporation, limited liability company, or other legal entity.

SEC. 119. Section 31048 of the Financial Code is amended to read:

31048. "Person" means any natural person, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, corporation, limited liability company, government, agency of any government, or any other organization; provided, however, that "person", when used with respect to acquiring control of or controlling a specified person, includes any combination of two or more persons acting in concert.

SEC. 120. Section 33061 of the Financial Code is amended to read:

33061. "Person" means any natural person, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, corporation, limited liability company, government, agency of any government, or any other organization; provided, however, that "person", when used with respect to acquiring control of or controlling a specified person, includes any combination of two or more persons acting in concert.

SEC. 121. Section 67 of the Fish and Game Code is amended to read:

67. "Person" means any natural person or any partnership, corporation, limited liability company, trust, or other type of association.

SEC. 122. Section 711.2 of the Fish and Game Code is amended to read:

711.2. (a) For purposes of this article, unless the context otherwise requires, "wildlife" means and includes all wild animals, birds, plants, fish, amphibians, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability and "project" has the same meaning as defined in Section 21065 of the Public Resources Code.

(b) For purposes of this article, "person" includes any individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, county, city and county, city, town, the state, and any of the agencies of those entities.

SEC. 123. Section 7690 of the Fish and Game Code is amended to read:

7690. (a) Any person engaged in the business of licensed commercial fishing may enter into an arrangement with other authorized persons for the pooling of funds to pay claims or losses arising out of loss or damage to a vessel or machinery used in the

business of commercial fishing and owned by a member of the pool.

A pool established pursuant to this section is not, and shall not be, subject to the Insurance Code and is not a member of the California Insurance Guarantee Association under Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(b) The pool established pursuant to this section shall have initial pooled resources of not less than two hundred fifty thousand dollars ($250,000) and the pool shall operate under generally acceptable accounting principles.

(c) All participating persons in any pool established pursuant to this section shall agree to pay premiums or make other mandatory financial contributions or commitments necessary to ensure a financially sound risk pool.

(d) For the purpose of this section, "person engaged in the business of licensed commercial fishing" and "authorized person" mean any natural person, partnership, corporation, limited liability company, or other person or entity engaged in the business of fishing for commercial purposes for which that person or its agents or employees are required to be licensed.

SEC. 124. Section 7850 of the Fish and Game Code is amended to read:

7850. (a) Excepting persons expressly exempted under this code, no person shall use or operate, or assist in using or operating, any boat, aircraft, net, trap, line, or other appliance to take fish or amphibia for commercial purposes, and no person shall cause to be brought ashore, any fish or amphibia at any point in the state for the purpose of selling them in a fresh state or shall contribute materially to the activities on board the commercial fishing vessel, unless the person holds a commercial fishing license issued by the department.

(b) Any person not required under subdivision (a) to hold a commercial fishing license shall register his or her presence on board the commercial fishing vessel in a log maintained by the owner or operator of the vessel according to the requirements of the department.

(c) As used in this section, "person" does not include persons who are less than 16 years of age, a partnership, corporation, or association. Any person, partnership, corporation, limited liability company, or association may pay the fees for a license issued to any person.

(d) This article does not apply to the taking, transporting, or selling of live freshwater fish for bait by the holder of a live freshwater bait fish license issued pursuant to Section 8460.

SEC. 125. Section 38 of the Food and Agricultural Code is amended to read:

38. "Person" means any individual, partnership, association, corporation, limited liability company, or any organized group of persons whether incorporated or not.

SEC. 126. Section 14554 of the Food and Agricultural Code is

amended to read:

14554. "Person" means individual, partnership, association, firm, limited liability company, or corporation who assumes responsibility for the product.

SEC. 127. Section 14937 of the Food and Agricultural Code is amended to read:

14937. "Person" means any individual, corporation, partnership, limited liability company, trust, association, cooperative association, or any other business unit or organization.

SEC. 128. Section 18672 of the Food and Agricultural Code is amended to read:

18672. "Person" includes any individual, partnership, corporation, limited liability company, association, or other business unit, and any officer, agent, or employee thereof.

SEC. 129. Section 61313 of the Food and Agricultural Code is amended to read:

61313. "Person" means any individual, firm, corporation, partnership, limited liability company, trust, incorporated or unincorporated association, nonprofit cooperative association, nonprofit corporation, or any other business unit or organization.

SEC. 130. Section 61834 of the Food and Agricultural Code is amended to read:

61834. "Person" means any individual, firm, corporation, partnership, limited liability company, trust, incorporated or unincorporated association, nonprofit cooperative association, nonprofit corporation, or any other business unit or organization.

SEC. 131. Section 64013 of the Food and Agricultural Code is amended to read:

64013. "Person" means an individual, corporation, partnership, limited liability company, trust, association, cooperative association, and any other business unit or organization.

SEC. 132. Section 64506 of the Food and Agricultural Code is amended to read:

64506. "Person" means an individual, corporation, partnership, limited liability company, trust, association, cooperative association, and any other business unit or organization.

SEC. 133. Section 77527 of the Food and Agricultural Code is amended to read:

77527. "Person" means an individual, partnership, corporation, limited liability company, firm, company, or other entity doing business in California.

SEC. 134. Section 17 of the Government Code is amended to read:

17. "Person" includes any person, firm, association, organization, partnership, limited liability company, business trust, corporation, or company.

SEC. 135. Section 4217.11 of the Government Code is amended to read:

4217.11. The following terms, whenever used in this chapter,

have the meanings given in this section, except where the context clearly indicates otherwise:

(a) "Alternate energy equipment" means equipment for the production or conversion of energy from alternate sources as its primary fuel source, such as solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, remote natural gas of less than one billion cubic feet estimated reserves per mile from an existing gas gathering line, natural gas containing 850 or fewer British Thermal Units per standard cubic foot, or any other source of energy, the efficient use of which will reduce the use of fossil or nuclear fuels.

(b) "Cogeneration equipment" means equipment for cogeneration, as defined in Section 218.5 of the Public Utilities Code.

(c) "Conservation measures" means equipment, maintenance, load management techniques and equipment, or other measures to reduce energy use or make for a more efficient use of energy.

(d) "Conservation services" means the electrical, thermal, or other energy savings resulting from conservation measures, which shall be treated as a supply of such energy.

(e) "Energy conservation facility" means alternate energy equipment, cogeneration equipment, or conservation measures located in public buildings or on land owned by public agencies.

(f) "Energy service contract" means a contract entered into by a public agency with any person, pursuant to which the person will provide electrical or thermal energy or conservation services to a public agency from an energy conservation facility.

(g) "Facility financing contract" means a contract entered into by a public agency with any person whereby the person provides financing for an energy conservation facility in exchange for repayment of the financing and all costs and expenses related thereto by the public agency. A facility financing contract may provide for the person with whom the public agency contracts to provide any combination of feasibility studies for, and design and construction of, all or part of the energy conservation facility in addition to the financing and other related services, and may provide for an installment sale purchase, another form of purchase, or amortized lease of the energy conservation facility by the public agency.

(h) "Facility ground lease" means a lease of all, or any portion of, land or a public building owned by, or under lease to, a public agency to a person in conjunction with an energy service contract or a facility financing contract. A facility ground lease may include, in addition to the land on which energy conservation facilities will be located, easements, rights-of-way, licenses, and rights of access, for the construction, use, or ownership by the person of the facility and all related utility lines not owned or controlled by the interconnecting utility, and offsite improvements related thereto. A facility ground lease may also include the addition or improvement of utility lines and equipment owned by the interconnecting utility which are necessary to permit interconnection between that utility and an energy conservation facility.

(i) "Person" means, but is not limited to, any individual, company, corporation, partnership, limited liability company, public agency, state agency, association, proprietorship, trust, joint venture, or other entity or group of entities.

(j) "Public agency" means a county, city and county, city, district, community college district, school district, joint powers authority or other entity designated or created by a political subdivision relating to energy development projects, and any other political subdivision or public corporation in the state, except the State of California, the California State University, and the University of California.

(k) "Public building" includes any structure, building, facility, or work which a public agency is authorized to construct or use, and automobile parking lots, landscaping, and other facilities, including furnishings and equipment, incidental to the use of any structure, building, facility, or work, and also includes the site thereof, and any easements, rights-of-way appurtenant thereto, or necessary for its full use.

SEC. 136. Section 6252 of the Government Code is amended to read:

6252. As used in this chapter:

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or nonprofit organizations of local governmental agencies and officials which are supported solely by public funds.

(c) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.

(e) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(f) "Member of the public" means any person, except a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

SEC. 137. Section 7260 of the Government Code is amended to read:

7260. As used in this chapter:

(a) "Public entity" includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state or any entity acting on behalf of these agencies when acquiring real property, or any interest therein, in any city or county for public use and any person who has the authority to acquire property by eminent domain under state law.

(b) "Person" means any individual, partnership, corporation, limited liability company, or association.

(c) (1) "Displaced person" means both of the following:

(A) Any person who moves from real property, or who moves his or her personal property from real property, either:

(i) As a direct result of a written notice of intent to acquire or the acquisition of the real property, in whole or in part, for a program or project undertaken by a public entity or by any person having an agreement with or acting on behalf of a public entity.

(ii) As a direct result of the rehabilitation, demolition, or other displacing activity as the public entity may prescribe under a program or project undertaken by a public entity, of real property on which the person is a residential tenant or conducts a business or farm operation, in any case in which the public entity determines that the displacement is permanent. For purposes of this subparagraph, "residential tenant" includes any occupant of a residential hotel unit, as defined in subdivision (b) of Section 50669 of the Health and Safety Code, and any occupant of employee housing, as defined in Section 17008 of the Health and Safety Code, but shall not include any person who has been determined to be in unlawful occupancy of the displacement dwelling.

(B) Solely for the purposes of Sections 7261 and 7262, any person who moves from real property, or moves his or her personal property from real property, either:

(i) As a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which the person conducts a business or farm operation, for a program or project undertaken by a public entity.

(ii) As a direct result of the rehabilitation, demolition, or other displacing activity as the public entity may prescribe under a program or project undertaken by a public entity, of other real property on which the person conducts a business or farm operation, in any case in which the public entity determines that the displacement is permanent.

(2) The definition contained in this subdivision shall be construed so that persons displaced as a result of public action receive relocation benefits in cases where they are displaced as a result of an owner participation agreement or an acquisition carried out by a private person for or in connection with a public use where the

public entity is otherwise empowered to acquire the property to carry out the public use. Except persons or families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, who are occupants of housing which was made available to them on a permanent basis by a public agency and who are required to move from the housing, a "displaced person" shall not include any of the following:

(A) Any person who has been determined to be in unlawful occupancy of the displacement dwellings.

(B) Any person whose right of possession at the time of moving arose after the date of the public entity's acquisition of the real property.

(C) Any person who has occupied the real property for the purpose of obtaining assistance under this chapter.

(D) In any case in which the public entity acquires property for a program or project (other than a person who was an occupant of the property at the time it was acquired), any person who occupies the property for a period subject to termination when the property is needed for the program or project.

(3) (A) Notwithstanding Section 7265.3 or any other provision of law, a person who is temporarily displaced for not more than 180 days, and who is offered occupancy of a comparable replacement unit located within the same apartment complex that contains the unit from which he or she has been displaced, shall not be deemed a "displaced person" for the purposes of this chapter. This paragraph shall be applicable only if all of the following conditions are complied with:

(i) All other financial benefits and services otherwise required under this chapter are provided to the tenants temporarily displaced from their units.

(ii) The resident is offered the right to return to his or her original unit, with rent for the first 12 months subsequent to that return being the lower of the following: up to 5 percent higher than the rent at the time of displacement; or up to 25 percent of household income.

(iii) The temporary unit is not unreasonably impacted by the effects of the construction, taking into consideration the ages and physical conditions of the members of the displaced household, and the estimated period of displacement is reasonable.

(iv) The property is a qualified affordable housing preservation project.

(B) For the purposes of this paragraph:

(i) "Apartment complex" means four or more residential rental units subject to common ownership and financing that are also located on the same or contiguous parcels.

(ii) "Qualified affordable housing preservation project" is any complex of four or more units whose owners enter into a recorded regulatory agreement, having a term for the useful life of the project, with any entity for the provision of project rehabilitation financing. For this purpose, the regulatory agreement shall require of the

owner and all successors and assigns of the owner, as long as the regulatory agreement is in effect, that at least 49 percent of the tenants in the project shall have, at the time of the recordation of the regulatory agreement required by this section, incomes not in excess of 60 percent of the area median income, adjusted by household size, as determined by the appropriate agency of the State of California. In addition, a project shall be defined as a qualified affordable housing preservation project only if the beneficiary of the regulatory agreement elects this designation by so indicating on the regulatory agreement.

(d) "Business" means any lawful activity, except a farm operation, conducted for any of the following:

(1) Primarily for the purchase, sale, lease, or rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property.

(2) Primarily for the sale of services to the public.

(3) Primarily by a nonprofit organization.

(4) Solely for the purpose of Section 7262 for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display, whether or not the display is located on the premises on which any of the above activities are conducted.

(e) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing these products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(f) "Affected property" means any real property which actually declines in fair market value because of acquisition by a public entity for public use of other real property and a change in the use of the real property acquired by the public entity.

(g) "Public use" means a use for which real property may be acquired by eminent domain.

(h) "Mortgage" means classes of liens that are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

(i) "Comparable replacement dwelling" means any dwelling that is all of the following:

(1) Decent, safe, and sanitary.

(2) Adequate in size to accommodate the occupants.

(3) In the case of a displaced person who is a renter, within the financial means of the displaced person. A comparable replacement dwelling is within the financial means of a displaced person if the monthly rental cost of the dwelling minus any replacement housing payment available to the person does not exceed 25 percent of the person's average monthly income.

(4) Comparable with respect to the number of rooms, habitable space, and type and quality of construction. Comparability under this

paragraph shall not require strict adherence to a detailed, feature-by-feature comparison. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features shall be present.

(5) In an area not subject to unreasonable adverse environmental conditions.

(6) In a location generally not less desirable than the location of the displaced persons dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

(j) "Displacing agency" means any public entity or person carrying out a program or project which causes a person to be a displaced person for a public project.

(k) "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(*l*) "Small business" means a business as defined in Part 24 of Title 49 of the Code of Federal Regulations.

(m) "Lead agency" means the Department of Housing and Community Development.

SEC. 138. Section 7465 of the Government Code is amended to read:

7465. For the purposes of this chapter:

(a) The term "financial institution" includes state and national banks, state and federal savings and loan associations, trust companies, industrial loan companies, and state and federal credit unions. Such term shall not include a title insurer while engaging in the conduct of the "business of title insurance" as defined by Section 12340.3 of the Insurance Code, an underwritten title company, or an escrow company.

(b) The term "financial records" means any original or any copy of any record or document held by a financial institution pertaining to a customer of the financial institution.

(c) The term "person" means an individual, partnership, corporation, limited liability company, association, trust or any other legal entity.

(d) The term "customer" means any person who has transacted business with or has used the services of a financial institution or for whom a financial institution has acted as a fiduciary.

(e) The term "state agency" means every state office, officer, department, division, bureau, board, and commission or other state agency, including the Legislature.

(f) The term "local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; or other local public agency.

(g) The term "supervisory agency" means any of the following:

(1) The State Banking Department.

(2) The Department of Savings and Loan.
(3) The Department of Corporations.
(4) The State Controller.
(5) The Administrator of Local Agency Security.
(6) The Department of Real Estate.
(7) The Department of Insurance.

(h) The term "investigation" includes, but is not limited to, any inquiry by a peace officer, sheriff, or district attorney, or any inquiry made for the purpose of determining whether there has been a violation of any law enforceable by imprisonment, fine, or monetary liability.

(i) The term "subpoena" includes subpoena duces tecum.

SEC. 139. Section 9072 of the Government Code is amended to read:

9072. As used in this article:

(a) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(b) "Legislature" includes any Member of the Legislature, any legislative officer, any standing, joint, or select committee or subcommittee of the Senate and Assembly, and any other agency or employee of the Legislature.

(c) "Legislative records" means any writing prepared on or after December 2, 1974, which contains information relating to the conduct of the public's business prepared, owned, used, or retained by the Legislature.

(d) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

SEC. 140. Section 12604 of the Government Code is amended to read:

12604. As used in this article, "person" includes any person, firm, association, organization, partnership, business trust, corporation, limited liability company, company, district, county, city and county, city, town, the state, and any of the agencies and political subdivisions of such entities.

SEC. 141. Section 12650 of the Government Code is amended to read:

12650. For purposes of this article:

(a) "Claim" includes any request or demand for money, property, or services made to any employee, officer, or agent of the state or of any political subdivision, or to any contractor, grantee, or other recipient, whether under contract or not, if any portion of the money, property, or services requested or demanded issued from, or was provided by, the state (hereinafter "state funds") or by any political subdivision thereof (hereinafter "political subdivision

funds").

(b) "Knowing" and "knowingly" mean that a person, with respect to information, does any of the following:

(1) Has actual knowledge of the information.

(2) Acts in deliberate ignorance of the truth or falsity of the information.

(3) Acts in reckless disregard of the truth or falsity of the information.

Proof of specific intent to defraud is not required.

(c) "Political subdivision" includes any city, city and county, county, tax or assessment district, or other legally authorized local governmental entity with jurisdictional boundaries.

(d) "Prosecuting authority" refers to the county counsel, city attorney, or other local government official charged with investigating, filing, and conducting civil legal proceedings on behalf of, or in the name of, a particular political subdivision.

(e) "Person" includes any natural person, corporation, firm, association, organization, partnership, limited liability company, business, or trust.

SEC. 142. Section 12925 of the Government Code is amended to read:

12925. As used in this part, unless a different meaning clearly appears from the context:

(a) "Commission" means the Fair Employment and Housing Commission and "commissioner" means a member of the commission.

(b) "Department" means the Department of Fair Employment and Housing.

(c) "Director" means the Director of Fair Employment and Housing.

(d) "Person" includes one or more individuals, partnerships, associations, corporations, limited liability companies, legal representatives, trustees, trustees in bankruptcy, and receivers or other fiduciaries.

SEC. 143. Section 50568 of the Government Code is amended to read:

50568. Unless the context otherwise requires, the following definitions govern the construction of this article:

(a) "Persons and families of low or moderate income" means persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code.

(b) "Limited dividend housing corporation" means any joint venture, partnership, limited partnership, trust, limited liability company, or corporation organized or existing under the laws of this state or authorized to do business in this state and subject to the restrictions of Division 24 (commencing with Section 33000) of the Health and Safety Code.

(c) "Housing corporation" means a corporation organized pursuant to the Community Land Chest Law (Chapter 2

(commencing with Section 35100) of Part 3 of Division 24 of the Health and Safety Code).

(d) "Nonprofit corporation" means a nonprofit corporation formed under or subject to the provisions of Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code and whose articles of incorporation provide that the corporation has been organized exclusively to provide housing facilities for persons and families of low or moderate income.

SEC. 144. Section 82047 of the Government Code is amended to read:

82047. "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert.

SEC. 145. Section 85102 of the Government Code is amended to read:

85102. The following terms as used in this chapter have the following meanings:

(a) "Fiscal year" means July 1 through June 30.

(b) "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and labor organization.

(c) "Political committee" means a committee of persons who receive contributions from two or more persons and acting in concert makes contributions to candidates.

(d) "Broad based political committee" means a committee of persons which has been in existence for more than six months, receives contributions from one hundred or more persons, and acting in concert makes contributions to five or more candidates.

(e) "Public moneys" has the same meaning as defined in Section 426 of the Penal Code.

SEC. 146. Section 19 of the Harbors and Navigation Code is amended to read:

19. "Person" means any person, firm, association, organization, partnership, limited liability company, business trust, corporation, or company.

SEC. 147. Section 293 of the Harbors and Navigation Code is amended to read:

293. Where damage arises out of, or is caused directly and proximately by, the acts of an owner or operator, without the interposition of any external or independent agency which could not reasonably be foreseen, any owner or operator of any vessel engaged in the commercial transportation, storage in a vessel, or transfer of petroleum, fuel oil, or hazardous substances shall be absolutely liable without regard to fault for any property damage incurred by the state or by any county, city or district, or by any person, within the state, and for any damage or injury to the natural resources of the state, including, but not limited to, marine and wildlife resources,

caused by the discharge or leakage of petroleum, fuel oil, or hazardous substances from such vessel into or upon the navigable waters of the state.

As used in this section, "owner or operator" means any person owning or operating, or chartering by demise, such vessel; "person" means an individual, firm, corporation, limited liability company, association, or partnership; and "navigable waters of the state" means all portions of the sea within the territorial jurisdiction of the state and all inland waters navigable in fact.

As used in this section, "hazardous substance" means any substance designated as such pursuant to paragraph (2) of subdivision (b) of Section 1321 of Title 33 of the United States Code.

This section shall be known and may be cited as the Miller Anti-Pollution Act of 1971.

SEC. 148. Section 294 of the Harbors and Navigation Code is amended to read:

294. (a) Any person responsible for natural gas, oil, drilling waste, or exploration, as defined in paragraph (4) of subdivision (g), shall be absolutely liable without regard to fault for any damages incurred by any injured party which arise out of, or are caused by, the discharge or leaking of natural gas, oil, or drilling waste into or onto marine waters, or by any exploration in or upon marine waters, from any of the following sources:

(1) Any offshore well or undersea site at which there is exploration for or extraction or recovery of natural gas or oil.

(2) Any offshore facility, oil rig, or oil platform at which there is exploration for, or extraction, recovery, processing, or storage of, natural gas or oil.

(3) Any vessel offshore in which natural gas, oil, or drilling waste is transported, processed, or stored.

(4) Any pipeline located offshore in which natural gas, oil, or drilling waste is transported.

(b) A responsible person is not liable to an injured party under this section for any of the following:

(1) Damages, other than costs of removal incurred by the state or a local government, caused solely by any act of war, hostilities, civil war, or insurrection or by an unanticipated grave natural disaster or other act of God of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight.

(2) Damages caused solely by the negligence or intentional malfeasance of that injured party.

(3) Damages caused solely by the criminal act of a third party other than the defendant or an agent or employee of the defendant.

(4) Natural seepage not caused by a responsible party.

(5) Discharge or leaking of oil or natural gas from a private pleasure boat or vessel.

(6) Damages which arise out of, or are caused by, a discharge which is authorized by a state or federal permit.

(c) Upon motion and sufficient showing by a person deemed to be responsible under this section, the court shall join to the action any other person who may be responsible under this section.

(d) In determining whether a party is a responsible person under this section, the court shall consider the results of any chemical or other scientific tests conducted to determine whether oil or other substances produced, discharged, or controlled by the defendant matches the oil or other substance which caused the damage to the injured party. The defendant shall have the burden of producing the results of tests of samples of the substance which caused the injury and of substances for which the defendant is responsible, unless it is not possible to conduct the tests because of unavailability of samples to test or because the substance is not one for which reliable tests have been developed. At the request of any party, any other party shall provide samples of oil or other substances within its possession or control for testing.

(e) The court may award reasonable costs of the suit, attorneys' fees, and the costs of any necessary expert witnesses, to any prevailing plaintiff. The court may award reasonable costs of the suit and attorneys' fees to any prevailing defendant if the court finds that the plaintiff commenced or prosecuted the suit under this section in bad faith or solely for purposes of harassing the defendant.

(f) This section does not prohibit any person from bringing an action for damages caused by natural gas, oil, or drilling waste, or by exploration, under any other provision or principle of law, including, but not limited to, common law. However, damages shall not be awarded pursuant to this section to an injured party for any loss or injury for which the party is or has been awarded damages under any other provision or principle of law. Subdivision (b) does not create any defense not otherwise available regarding any action brought under any other provision or principle of law, including, but not limited to, common law.

(g) As used in this section, the following definitions apply:

(1) "Damages" are damages for any of the following:

(A) Injury or harm to real or personal property.

(B) Business loss, including loss of income.

(C) Costs of cleanup, removal, or treatment of natural gas, oil, or drilling waste.

(D) Cost of wildlife rehabilitation.

(E) When the injured party is the state, or a city, county, or district, in addition to any injury described in subparagraphs (A) to (D), inclusive, damages include all of the following:

(i) Injury to natural resources or wildlife, and loss of use and enjoyment of public beaches and other public resources or facilities, within the jurisdiction of the state, city, county, or district.

(ii) Costs incurred to monitor the cleanup of the natural gas, oil, or drilling waste.

(iii) Loss of taxes.

(iv) Costs to assess damages to natural resources, wildlife, or

habitat.

(2) "Injured party" means any person who suffers damages from natural gas, oil, or drilling waste, which is discharged or leaks into marine waters, or from offshore exploration. The state, or a city, county, or district, may be an injured party.

(3) "Natural gas" includes natural gas, liquified natural gas, and natural gas byproducts. "Natural gas" does not include natural gas carried in a vessel for use as fuel in that vessel.

(4) "Exploration" means boring and soil sampling.

(5) "Oil" and "drilling wastes" include, but are not limited to, petroleum, refined or processed petroleum, petroleum byproducts, oil sludge, oil refuse, oil mixed with wastes, and chemicals or other materials used in the exploration, recovery, or processing of oil. "Oil" does not include oil carried in a vessel for use as fuel in that vessel.

(6) "Person" means an individual, proprietorship, firm, partnership, joint venture, corporation, limited liability company, or other business entity, or an association or other organization.

(7) "Responsible person" means any of the following:

(A) The owner or transporter of natural gas, oil, or drilling waste which causes an injury covered by this section.

(B) The owner, operator, or lessee of, or person who charters by demise, any offshore well, undersea site, facility, oil rig, oil platform, vessel, or pipeline which is the source of natural gas, oil, drilling waste, or is the source or location of exploration which causes an injury covered by this section.

"Responsible party" does not include the United States, the state, or any public agency.

(h) Liability under this section shall be joint and several. However, this section does not bar a cause of action that a responsible party has or would have, by reason of subrogation or otherwise, against any person.

(i) Section 3291 of the Civil Code applies to actions brought under this section.

(j) This section does not apply to claims for damages for personal injury or wrongful death, and does not limit the right of any person to bring an action for personal injury or wrongful death under any provision or theory of law.

SEC. 149. Section 651 of the Harbors and Navigation Code is amended to read:

651. As used in this chapter, unless the context clearly requires a different meaning:

(a) "Alcohol" means any form or derivative of ethyl alcohol (ethanol).

(b) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(c) "Chemical test" means a test which analyzes an individual's breath, blood, or urine, for evidence of drug or alcohol use.

(d) "Controlled substance" means controlled substance as defined in Section 11007 of the Health and Safety Code.

(e) "Department" means the Department of Boating and Waterways.

(f) "Director" means the Director of Boating and Waterways.

(g) "Vessel" includes every description of watercraft used or capable of being used as a means of transportation on water, except either of the following:

(1) A seaplane on the water.

(2) A watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled.

(h) "Boat" means any vessel which is any of the following:

(1) Manufactured or used primarily for noncommercial use.

(2) Leased, rented, or chartered to another for the latter's noncommercial use.

(3) Engaged in the carrying of six or fewer passengers, including those for-hire vessels carrying more than three passengers while using inland waters of the state that are not declared navigable by the United States Coast Guard.

(4) Commercial vessels required to be numbered pursuant to Section 9850 of the Vehicle Code.

(i) "Intoxicant" means any form of alcohol, drug, or combination thereof.

(j) "Marine employer" means the owner, managing operator, charterer, agent, master, or person in charge of a vessel other than a recreational vessel.

(k) "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

(*l*) "Owner" is a person having all the incidents of ownership, including the legal title, of a vessel whether or not that person lends, rents, or pledges the vessel; the person entitled to the possession of a vessel as the purchaser under a conditional sale contract; or the mortgagor of a vessel. "Owner" does not include a person holding legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state or to any county, city, district, or political subdivision of the state under a lease, lease-sale, or rental-purchase agreement which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(m) "Legal owner" is a person holding the legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state, or to any county, city, district, or political subdivision of the state, under a lease, lease-sale, or rental-purchase agreement which grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

(n) "Registered owner" is the person registered by the Department of Motor Vehicles as the owner of the vessel.

(o) "Waters of this state" means any waters within the territorial limits of this state.

(p) "Person" means an individual, partnership, firm, corporation, limited liability company, association, or other entity, but does not include the United States, the state, or a municipality or subdivision thereof.

(q) "Operator" means the person on board who is steering the vessel while underway.

(r) "Undocumented vessel" means any vessel which is not required to have and does not have a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

(s) "Use" means operate, navigate, or employ.

(t) "State" means a state of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

(u) "State of principal use" means the state on which waters a vessel is used or intended to be used most during a calendar year.

(v) "Passenger" means every person carried on board a vessel other than any of the following:

(1) The owner or his or her representative.

(2) The operator.

(3) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services.

(4) Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his or her carriage.

(w) "Associated equipment" means any of the following, excluding radio equipment:

(1) Any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of the system, part, or component.

(2) Any accessory or equipment for, or appurtenance to, a boat.

(3) Any marine safety article, accessory, or equipment intended for use by a person on board a boat.

(x) "Manufacturer" means any person engaged in any of the following:

(1) The manufacture, construction, or assembly of boats or associated equipment.

(2) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly.

(3) The importation into this state for sale of boats, associated equipment, or components thereof.

(y) "Drug" means any substance or combination of substances other than alcohol which could so affect the nervous system, brain, or muscles of a person as to impair to an appreciable degree his or her ability to operate a vessel in the manner that an ordinarily

prudent person, in full possession of his or her faculties, using reasonable care, would operate a similar vessel under like conditions.

(z) "Water skis, an aquaplane, or a similar device" includes all forms of water skiing, barefoot skiing, skiing on skim boards, knee boards, or other contrivances, parasailing, ski kiting, or any activity where a person is towed behind or alongside a boat.

(aa) "Special-use area" means all or a portion of a waterway that is set aside for specified uses or activities to the exclusion of other incompatible uses or activities.

(bb) "Recreational vessel" means a vessel which is being used only for pleasure.

This section shall become operative on January 1, 1992.

SEC. 150. Section 773.2 of the Harbors and Navigation Code is amended to read:

773.2. As used in this article:

(a) "For-hire vessel" means a for-hire vessel as defined in Section 4661 of the Public Utilities Code, irrespective of the number of passengers carried.

(b) "Charter boat" means a for-hire vessel operating on navigable water of the state in the coastal zone as defined in Section 30103 of the Public Resources Code, whether or not the vessel is licensed by the state. However, "charter boat" does not include any boat operating solely within a harbor, as defined in Section 34, or any boat licensed for point-to-point service while operating within the scope of that license.

(c) "Operator" means a person owning, controlling, operating, or managing a for-hire vessel.

(d) "Charterer" means a person who receives compensation for contracting with an operator to transport three or more passengers.

(e) "Coast Guard" means the United States Coast Guard.

(f) "Life preserver" means a life preserver approved and certified by the Coast Guard and capable of providing at least 90 percent of factory-rated flotation capacity.

(g) "Person" means any individual, firm, partnership, for-profit corporation, not for-profit corporation, limited liability company, company, association, joint stock association, trustee, receiver, assignee, or other similar entity or representative.

SEC. 151. Section 19 of the Health and Safety Code is amended to read:

19. "Person" means any person, firm, association, organization, partnership, business trust, corporation, limited liability company, or company.

SEC. 152. Section 1170.2 of the Health and Safety Code is amended to read:

1170.2. Unless the context otherwise requires, the provisions of this chapter govern the construction of this part. As used in this part:

(a) "Authority" means the Monterey County Special Health Care Authority.

(b) "Board" means the Monterey County Special Health Care

Authority Board.

(c) "County" means the County of Monterey.

(d) "Health care system" means any system established to arrange for the provision of medical services.

(e) "Public agency" means the United States, the State of California, any political subdivision, county, municipality, district, or agency of the State of California or of the United States and any department, bureau or commission of the State of California or of the United States.

(f) "Person" means any individual, firm, partnership, association, corporation, limited liability company, trust, business trust, or the receiver or trustee or conservator for any of the above, but does not include a public agency.

(g) "The professional advisory board" means that advisory board to the authority's board composed of nine health and medical care professionals appointed by the Monterey County Board of Supervisors, five of whom shall be nominated by the Monterey County Medical Society, with at least one to be a member of the Monterey County Chapter of the American Academy of Family Practice, one of whom shall be nominated by Natividad Medical Center, one of whom shall be nominated by the Monterey County Hospital Administrators' Association, and two of whom shall be nominated by other organizations in the County of Monterey representing other professional health care providers.

(h) "The community advisory board" means that advisory board to the authority's board appointed by the Monterey County Board of Supervisors which is comprised of 15 persons who represent community and consumer interests and who do not directly earn their income from the provision of medical or health services.

(i) For the purposes of this part, the term "medical services or medical benefits" does not include dental care or dental benefits.

(j) For the purposes of this part, the term "health care" does not include dental care.

SEC. 153. Section 1175.2 of the Health and Safety Code is amended to read:

1175.2. Unless the context otherwise requires, the provisions of this chapter govern the construction of this part. As used in this part:

(a) "Authority" means the Santa Barbara Regional Health Authority.

(b) "Board" means the Santa Barbara Regional Health Authority Board of Directors.

(c) "County" means the County of Santa Barbara.

(d) "Health care system" means any system established to arrange for the provision of medical services.

(e) "Public agency" means the United States, the State of California, any political subdivision, county, municipality, district, or agency of the State of California or of the United States and any department, bureau or commission of the State of California or of the United States.

(f) "Person" means any individual, firm, partnership, association, corporation, limited liability company, trust, business trust, or the receiver or trustee or conservator for any of the above, but does not include a public agency.

(g) "Professional advisory boards" means the boards appointed by the board of directors of the authority pursuant to its rules which shall consist of a representative cross-section of professional providers of health care services within the county.

(h) "Community advisory boards" means advisory boards to the authority's board appointed by the board of directors of the authority which shall consist of persons who represent community and consumer interests and who do not directly earn their income from the provision of medical health services.

SEC. 154. Section 1345 of the Health and Safety Code is amended to read:

1345. As used in this chapter:

(a) "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or by radio, television, or similar communications media, published in connection with the offer or sale of plan contracts.

(b) "Basic health care services" means all of the following:

(1) Physician services, including consultation and referral.

(2) Hospital inpatient services and ambulatory care services.

(3) Diagnostic laboratory and diagnostic and therapeutic radiologic services.

(4) Home health services.

(5) Preventive health services.

(6) Emergency health care services, including ambulance services and out-of-area coverage.

(c) "Enrollee" means a person who is enrolled in a plan and who is a recipient of services from the plan.

(d) "Evidence of coverage" means any certificate, agreement, contract, brochure, or letter of entitlement issued to a subscriber or enrollee setting forth the coverage to which the subscriber or enrollee is entitled.

(e) "Group contract" means a contract which by its terms limits the eligibility of subscribers and enrollees to a specified group.

(f) "Health care service plan" means any person who undertakes to arrange for the provision of health care services to subscribers or enrollees, or to pay for or to reimburse any part of the cost for such services, in return for a prepaid or periodic charge paid by or on behalf of such subscribers or enrollees.

(g) "License" means, and "licensed" refers to, a license as a plan pursuant to Section 1353.

(h) "Provider" means any professional person, organization, health facility, or other person or institution licensed by the state to deliver or furnish health care services.

(i) "Person" means any person, individual, firm, association,

organization, partnership, business trust, foundation, labor organization, corporation, limited liability company, public agency, or political subdivision of the state.

(j) "Service area" means a geographical area designated by the plan within which a plan shall provide health care services.

(k) "Solicitation" means any presentation or advertising conducted by, or on behalf of, a plan, where information regarding the plan, or services offered and charges therefor, is disseminated for the purpose of inducing persons to subscribe to, or enroll in, the plan.

(*l*) "Solicitor" means any person who engages in the acts defined in subdivision (k) of this section.

(m) "Solicitor firm" means any person, other than a plan, who through one or more solicitors engages in the acts defined in subdivision (k) of this section.

(n) "Specialized health care service plan contract" means a contract for health care services in a single specialized area of health care, including dental care, for subscribers or enrollees, or which pays for or which reimburses any part of the cost for such services, in return for a prepaid or periodic charge paid by or on behalf of such subscribers or enrollees.

(o) "Subscriber" means the person who is responsible for payment to a plan or whose employment or other status, except for family dependency, is the basis for eligibility for membership in the plan.

(p) Unless the context indicates otherwise, "plan" refers to health care service plans and specialized health care service plans.

(q) "Plan contract" means a contract between a plan and its subscribers or enrollees or a person contracting on their behalf pursuant to which health care services, including basic health care services, are furnished; and unless the context otherwise indicates it includes specialized health care service plan contracts; and unless the context otherwise indicates it includes group contracts.

(r) All references in this chapter to financial statements, assets, liabilities, and other accounting items mean such financial statements and accounting items prepared or determined in accordance with generally accepted accounting principles, and fairly presenting the matters which they purport to present, subject to any specific requirement imposed by this chapter or by the commissioner.

(s) This section shall become operative April 1, 1993.

SEC. 155. Section 1596.79 of the Health and Safety Code is amended to read:

1596.79. "Person" means an individual, partnership, association, corporation, limited liability company, or governmental entity, such as the state, a county, city, special district, school district, community college district, chartered city, or chartered city and county.

SEC. 156. Section 4010.1 of the Health and Safety Code is amended to read:

4010.1. As used in this chapter:

(a) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(b) "Department" means the State Department of Health Services.

(c) "Drinking water standards" means:

(1) Primary drinking water standards that specify maximum levels of contaminants that, in the judgment of the department, may have an adverse effect on the health of persons.

(2) Secondary drinking water standards that specify maximum contaminant levels that, in the judgment of the department, are necessary to protect the public welfare. Secondary drinking water standards may apply to any contaminant in drinking water that may adversely affect the odor or appearance of the water and may cause a substantial number of persons served by the public water system to discontinue its use, or that may otherwise adversely affect the public welfare. Regulations establishing secondary drinking water standards may vary according to geographic and other circumstances and may apply to any contaminant in drinking water that adversely affects the taste, odor, or appearance of the water when the standards are necessary to assure a supply of pure, wholesome, and potable water.

(3) The monitoring and reporting requirements as specified in regulations adopted by the department that pertain to maximum contaminant levels.

(d) "Maximum contaminant level" means the maximum permissible level of a contaminant in water.

(e) "Person" means an individual, corporation, company, association, partnership, limited liability company, municipality, public utility, or other public body or institution.

(f) "Public water system" means a system for the provision of piped water to the public for human consumption that has 15 or more service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:

(1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system which are used primarily in connection with the system.

(2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.

(3) Any person who treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

(g) "Community water system" means a public water system that serves at least 15 service connections used by yearlong residents or regularly serves at least 25 yearlong residents.

(h) "Noncommunity water system" means a public water system that meets one of the following criteria:

(1) Serves at least 25 nonresident individuals daily at least 60 days

of the year, but not more than 24 yearlong residents.

(2) Serves 15 or more service connections and any number of nonresident individuals at least 60 days of the year, but no yearlong residents.

(i) "Local health officer" means a local health officer appointed pursuant to Section 451 or a local comprehensive health agency designated by the board of supervisors pursuant to Section 1155.5 to carry out the drinking water program.

(j) "Significant rise in the bacterial count of water" means a rise in the bacterial count of water that the department determines, by regulation, represents an immediate danger to the health of water users.

(k) "State small water system" means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than 14, service connections and does not regularly serve more than an average of 25 individuals daily for more than 60 days out of the year.

(*l*) "User" means any person using water for domestic purposes. User does not include any person processing, selling, or serving water or operating a public water system.

(m) "Waterworks standards" means regulations adopted by the department that take cognizance of the latest available "Standards of Minimum Requirements for Safe Practice in the Production and Delivery of Water for Domestic Use" adopted by the California section of the American Water Works Association.

(n) "Local primacy agency" means any local health officer that has applied for and received primacy delegation from the department pursuant to Section 4010.7.

(o) "Service connection" means the point of connection between the customer's piping or ditch, and the public water system's meter, service pipe, or ditch.

SEC. 157. Section 7150.1 of the Health and Safety Code is amended to read:

7150.1. As used in this chapter:

(a) "Anatomical gift" means a donation of all or part of a human body or a pacemaker to take effect upon or after death.

(b) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(c) "Document of gift" means a card, a statement attached to or imprinted on a motor vehicle operator's or chauffeur's license, a will, or other writing used to make an anatomical gift.

(d) "Donor" means an individual who makes an anatomical gift of all or part of the individual's body or a pacemaker.

(e) "Enucleator" means an individual who removes or processes eyes or parts of eyes.

(f) "Hospital" means a facility licensed, accredited, or approved as a hospital under the law of any state or a facility operated as a hospital by the United States government, a state, or a subdivision of a state.

(g) "Part" means an organ, tissue, eye, bone, artery, blood, fluid, or other portion of a human body or a pacemaker.

(h) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, joint venture, association, government, governmental subdivision or agency, or any other legal or commercial entity.

(i) "Physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathic medicine and surgery under the laws of any state.

(j) "Procurement organization" means a person licensed, accredited, or approved under the laws of any state or by the State Department of Health Services for procurement, distribution, or storage of human bodies or parts.

(k) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(*l*) "Technician" means an individual who has completed training in removal of parts for transplant, therapeutic, or scientific purposes, which the donee determines to be adequate for the purpose.

SEC. 158. Section 7186 of the Health and Safety Code is amended to read:

7186. As used in this chapter, unless the context otherwise requires:

(a) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.

(b) "Declaration" means a writing executed in accordance with the requirements of subdivision (a) of Section 7186.5.

(c) "Health care provider" means a person who is licensed, certified, or otherwise authorized by the law of this state to administer health care in the ordinary course of business or practice of a profession.

(d) "Life-sustaining treatment" means any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the process of dying or an irreversible coma or persistent vegetative state.

(e) "Permanent unconscious condition" means an incurable and irreversible condition that, within reasonable medical judgment, renders the patient in an irreversible coma or persistent vegetative state.

(f) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(g) "Physician" means a physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California.

(h) "Qualified patient" means a patient 18 or more years of age who has executed a declaration and who has been diagnosed and

certified in writing by the attending physician and a second physician who has personally examined the patient to be in a terminal condition or permanent unconscious condition.

(i) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(j) "Terminal condition" means an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, within reasonable medical judgment, result in death within a relatively short time.

SEC. 159. Section 11022 of the Health and Safety Code is amended to read:

11022. "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, or association, or any other legal entity.

SEC. 160. Section 17009.5 of the Health and Safety Code is amended to read:

17009.5. (a) "Person," as used in this part, includes any natural person, firm, association, organization, partnership, business trust, company, joint stock company, corporation, limited liability company, joint venture, or other organizations of persons.

(b) "Person," as used in this part, may be used interchangeably with "tenant" or "employee," and those terms are used interchangeably when the context does not imply an employer or an owner of employee housing.

SEC. 161. Section 25026 of the Health and Safety Code is amended to read:

25026. "Person" means an individual, trust, firm, joint stock company, business concern, partnership, association, limited liability company, and corporation, including, but not limited to, a government corporation. "Person" also includes any city, county, district, commission, the state or any department, agency, or political subdivision thereof, the Regents of the University of California, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

SEC. 162. Section 25249.11 of the Health and Safety Code is amended to read:

25249.11. Definitions.

For purposes of this chapter:

(a) "Person" means an individual, trust, firm, joint stock company, corporation, company, partnership, limited liability company, and association.

(b) "Person in the course of doing business" does not include any person employing fewer than 10 employees in his or her business; any city, county, or district or any department or agency thereof or the state or any department or agency thereof or the federal government or any department or agency thereof; or any entity in its operation of a public water system as defined in Section 4010.1.

(c) "Significant amount" means any detectable amount except an amount which would meet the exemption test in subdivision (c) of Section 25249.10 if an individual were exposed to such an amount in drinking water.

(d) "Source of drinking water" means either a present source of drinking water or water which is identified or designated in a water quality control plan adopted by a regional board as being suitable for domestic or municipal uses.

(e) "Threaten to violate" means to create a condition in which there is a substantial probability that a violation will occur.

(f) "Warning" within the meaning of Section 25249.6 need not be provided separately to each exposed individual and may be provided by general methods such as labels on consumer products, inclusion of notices in mailings to water customers, posting of notices, placing notices in public news media, and the like, provided that the warning accomplished is clear and reasonable. In order to minimize the burden on retail sellers of consumer products including foods, regulations implementing Section 25249.6 shall to the extent practicable place the obligation to provide any warning materials such as labels on the producer or packager rather than on the retail seller, except where the retail seller itself is responsible for introducing a chemical known to the state to cause cancer or reproductive toxicity into the consumer product in question.

SEC. 163. Section 25270.2 of the Health and Safety Code is amended to read:

25270.2. For purposes of this chapter, the following definitions apply:

(a) "Board" means the State Water Resources Control Board.

(b) "Fund" means the Environmental Protection Trust Fund established pursuant to Section 25270.11.

(c) "Operator" means the person responsible for the overall operation of a tank facility.

(d) "Owner" means the person who owns the tank facility or part of the tank facility.

(e) "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, limited liability company, or association. "Person" also includes any city, county, district, the University of California, the California State University, the state, any department or agency thereof, and the United States, to the extent authorized by federal law.

(f) "Petroleum" means crude oil, or any fraction thereof, which is liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per square inch absolute pressure.

(g) "Regional board" means a California regional water quality control board.

(h) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, or disposing into the environment.

(i) "Storage" or "store" means the containment, handling, or treatment of petroleum, for any period of time, including on a temporary basis.

(j) "Storage tank" means any aboveground tank or container used for the storage of petroleum. "Storage tank" does not include any of the following:

(1) A pressure vessel or boiler which is subject to Part 6 (commencing with Section 7620) of Division 5 of the Labor Code.

(2) A storage tank containing hazardous waste, as defined in subdivision (g) of Section 25316, if the person owning or operating the storage tank has been issued a hazardous waste facilities permit for the storage tank by the department.

(3) An aboveground oil production tank which is subject to Section 3106 of the Public Resources Code.

(k) "Tank facility" means any one, or combination of, aboveground storage tanks, including any piping which is integral to the tank, which contains petroleum and which is used by a single business entity at a single location or site. For purposes of this chapter, a pipe is integrally related to an aboveground storage tank if the pipe is connected to the tank and meets any of the following:

(1) The pipe is within the dike or containment area.

(2) The pipe is between the containment area and the first flange or valve outside the containment area.

(3) The pipe is connected to the first flange or valve on the exterior of the tank, if state or federal law does not require a containment area.

SEC. 164. Section 25319 of the Health and Safety Code is amended to read:

25319. "Person" means an individual, trust, firm, joint stock company, business concern, corporation, including, but not limited to, a government corporation, partnership, limited liability company, and association. "Person" also includes any city, county, city and county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the United States and its agencies and instrumentalities, to the extent permitted by law.

SEC. 165. Section 25420 of the Health and Safety Code is amended to read:

25420. For purposes of this chapter, the following definitions apply:

(a) "Person" means an individual, trust, firm, joint stock company, partnership, association, business concern, limited liability company, or corporation. "Person" also includes any city, county, district, and the state or any department or agency thereof, or the federal government or any department or agency thereof to the extent permitted by law.

(b) "Department" means the State Department of Health Services.

(c) "Gas corporation" has the same meaning as defined in Section

222 of the Public Utilities Code and is subject to rate regulation by the Public Utilities Commission.

SEC. 166. Section 25805 of the Health and Safety Code is amended to read:

25805. As used in this chapter:

(a) "Secretary" means the Secretary of the Resources Agency.

(b) "Ionizing radiation" means gamma rays and X-rays; alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(c) "Person" means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Nuclear Regulatory Commission, the United States Department of Energy, or any successor thereto, and other than federal government agencies licensed by the United States Nuclear Regulatory Commission, under prime contract to the United States Department of Energy, or any successor thereto.

(d) "Byproduct material" means any radioactive material, except special nuclear material, yielded in, or made radioactive by exposure to the radiation incident to, the process of producing or utilizing special nuclear material.

(e) "Source material" means (1) uranium, thorium, or any other material which the department declares by rule to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such; or (2) ores containing one or more of the foregoing materials, in such concentration as the department declares by rule to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material in such concentration to be source material.

(f) "Special nuclear material" means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the department declares by rule to be special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(g) "General license" means a license, pursuant to regulations promulgated by the department, effective without the filing of an application, to transfer, acquire, own, possess or use quantities of, or devices or equipment utilizing, byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.

(h) "Specific license" means a license, issued after application, to use, manufacture, produce, transfer, receive, acquire, own, or possess

quantities of, or devices or equipment utilizing, byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.

(i) "Registration" means the reporting of possession of a source of radiation and the furnishing of information with respect thereto, in accordance with subdivision (b) of Section 25815.

(j) "Department" means the State Department of Health Services.

(k) "Director" means the State Director of Health Services.

(*l*) "Federal research and development activity" means any activity of the Secretary of Energy conducted at any research facility owned or operated by the United States Department of Energy.

(m) "Low-level waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or the byproduct material defined in Section 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. Sec. 2014 (e)(2)). For purposes of this subdivision, the following definitions shall apply:

(1) "High-level radioactive waste" means either of the following:

(A) The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from this liquid waste that contains fission products in sufficient concentrations.

(B) Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing law, determines by rule requires permanent isolation.

(2) "Spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(3) "Transuranic waste" means any waste containing more than 100 nanocuries of alpha emitting transuranic nuclides with half-life greater than five years per gram of waste material.

(n) "Mammogram" means an X-ray image of the human breast.

(o) "Mammography" means the procedure for creating a mammogram.

(p) "Mammography quality assurance" means the detection of a change in X-ray and ancillary equipment that adversely affects the quality of films and the glandular radiation dose, and the correction of this change.

(q) "Mammogram certification" means a certification, issued by the department after registration, that the equipment dedicated to or used for mammography meets the standards prescribed pursuant to this chapter.

SEC. 167. Section 26024 of the Health and Safety Code is amended to read:

26024. "Person" means any individual, firm, partnership, trust, corporation, limited liability company, company, estate, public or private institution, association, organization, group, city, county, city and county, political subdivision of this state, other governmental

agency within the state, and any representative, agent, or agency of any of the foregoing.

SEC. 168. Section 27530 of the Health and Safety Code is amended to read:

27530. "Person" means any individual, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, receiver, syndicate, city, county, or other political subdivision, or any other group or combination acting as a unit.

SEC. 169. Section 28501 of the Health and Safety Code is amended to read:

28501. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this chapter.

(a) "Shellfish" means native or nonnative bivalve mollusks, which include oysters, rock scallops, clams, and mussels, either fresh or frozen, and either shucked or in the shell.

(b) "Shellstock" means shellfish which remain in their shells.

(c) "Growing area" means any offshore ocean, coastal estuarine, or freshwater area that may be classified by the department for natural shellfish growth or artificial shellfish propagation and includes open seawater systems.

(d) "Approved area" means a shellfish-growing area not adversely affected by sewage or other wastes.

(e) "Conditionally approved area" means a shellfish-growing area that may be occasionally affected by sewage or other wastes.

(f) "Prohibited area" means a shellfish-growing area not certified because of its proximity to a waste discharge or because the area is influenced by other detrimental environmental factors.

(g) "Restricted area" means a shellfish-growing area subjected to a limited degree of pollution which makes it unsafe to harvest shellfish for direct marketing but where harvesting for relaying or depuration may be permitted.

(h) "Other wastes" means wastes, such as, but not limited to, animal, industrial, radiological, and agricultural wastes which would render shellfish unsafe or unfit for human consumption.

(i) "Department" means the State Department of Health Services.

(j) "Director" means the State Director of Health Services.

(k) "Person" includes any individual, partnership, corporation, limited liability company, and association.

(*l*) "Closed area" means an area that the shellfish taken therefrom have been declared to be unsafe or unfit for human consumption.

SEC. 170. Section 37912 of the Health and Safety Code is amended to read:

37912. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by a local agency pursuant to this part and which are payable exclusively from the revenues, as

defined in subdivision (k), and from any other funds specified in this part upon which the bonds may be made a charge and from which they are payable.

(b) "Citizen participation" means action by the local agency to provide persons who will be affected by residential rehabilitation financed under the provisions of this part with opportunities to be involved in planning and carrying out the residential rehabilitation program. "Citizen participation" shall include, but not be limited to, all of the following and in the order provided below:

(1) Holding a public meeting prior to the original hearing by the legislative body for the purpose of considering selection of the area for designation and determining the method of notice to property owners which will be used pursuant to paragraph (3).

(2) Consultation with an elected or appointed citizen advisory board of a proposed residential rehabilitation area. The members of the board shall include, to the greatest extent feasible, representatives of resident owners, nonresident owners, and resident tenants of both single-family and multiple-family residential structures who are not apartment managers, resident agents, or employees of property owners. The duties of the board are to develop a plan for public improvements and the rules and regulations for implementation of the proposed residential rehabilitation program.

(3) Dissemination of information relating to the time and location of the hearing, boundaries of the proposed residential rehabilitation area, and a general description of the proposed residential rehabilitation program by one of the following methods as determined by the legislative body at the public meeting provided in paragraph (1):

(A) At least seven days prior to the original hearing, by mailing to all real property owners within the proposed residential rehabilitation area at the address shown on the latest assessment roll and by distribution to residents of the proposed residential rehabilitation area in a manner determined to be appropriate by the local agency.

(B) After express findings by the legislative body at the public meeting provided in paragraph (1) at lower expense and effective notice at least equal to the mailed and distributed notice provided in subparagraph (A), by a method determined by the legislative body which includes, but is not limited to, publication of such notice pursuant to Section 6066 of the Government Code and posting of such notice at no less than three prominent places within the proposed residential redevelopment area and distribution to residents of the proposed residential rehabilitation area in a manner determined to be appropriate by the local agency.

"Citizen participation" also includes any other means of citizen involvement determined appropriate by the legislative body.

Public meetings and consultations held to implement the requirements of citizen participation shall be conducted by a

planning or rehabilitation official designated by the legislative body. Public meetings shall be held at times and places convenient to residents and property owners.

(c) "Financing" means the lending of moneys or any other thing of value, or the purchase of a loan previously made by a qualified mortgage lender in accordance with rules and regulations of the local agency, for the purpose of residential rehabilitation and may, in the discretion of the legislative body, include any or all of the following:

(1) Refinancing of outstanding indebtedness of the participating party with respect to property which is subject to residential rehabilitation by such participating party.

(2) Financing or refinancing the cost incurred by a participating party in acquiring real property for the purpose of residential rehabilitation, including residential infill construction and move-on residences.

(3) Financing the acquisition of residences within a residential rehabilitation area which have been previously rehabilitated or constructed with financing pursuant to this part.

(d) "Legislative body" means the city council, board of supervisors, or other legislative body of the local agency.

(e) "Local agency" means any of the following:

(1) Any city, county, or city and county.

(2) Any redevelopment agency functioning pursuant to Part 1 (commencing with Section 33000).

(3) Any housing authority functioning pursuant to Part 2 (commencing with Section 34200).

(f) "Move-on residence" means a previously occupied single family or multifamily residential structure moved from a location to a vacant lot inside a residential rehabilitation area, or outside a residential rehabilitation area if the single-family or multifamily residential structure is for occupancy for persons or families of low or moderate income.

(g) "Participating party" means any person, company, corporation, partnership, limited liability company, firm, local agency, political subdivision of the state, or other entity or group of entities requiring financing for residential rehabilitation pursuant to the provisions of this part. No elective officer of the state or any of its political subdivisions and no employee or member of the agency issuing bonds shall be eligible to be a participating party under the provision of this part.

(h) "Qualified mortgage lender" means a mortgage lender authorized by a local agency to do business with the agency and to aid in financing pursuant to this part on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing authorized by this part. Nothing in any other provision of state law shall prevent such a lender from

serving as a qualified mortgage lender pursuant to this part.

(i) "Residential rehabilitation" includes the following:

(1) The construction, reconstruction, renovation, replacement, extension, repair, betterment, equipping, developing, embellishing, or otherwise improving residences consistent with standards of strength, effectiveness, fire resistance, durability, and safety, so that such structures are satisfactory and safe to occupy for residential purposes and are not conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime because of any one or more of the following factors:

(A) Defective design and character of physical construction.

(B) Faulty interior arrangement and exterior spacing.

(C) Inadequate provision for ventilation, lighting, and sanitation.

(D) Obsolescence, deterioration, and dilapidation.

(2) Residential infill construction, where authorized by the comprehensive residential rehabilitation financing program.

(3) A qualified home improvement loan, which has the same meaning as Section 103 (A) of the Federal Internal Revenue Code of 1954, as amended by Public Law 96-499, December 5, 1980.

(4) With respect to a move-on residence, where authorized by the comprehensive residential rehabilitation financing program, the acquisition prior to relocation of, movement of, installation of, and rehabilitation of, a move-on residence and purchase of a move-on residence that has previously been rehabilitated with financing under this part.

(5) Acquisition of real property for the purpose of rehabilitation or residential infill construction pursuant to paragraph (1), (2), or (4), if authorized by the comprehensive residential rehabilitation financing program.

(6) Purchase of residences within a residential rehabilitation area which have been previously rehabilitated or constructed with financing under this part, if authorized by the comprehensive residential rehabilitation financing program.

(7) Relocation payments required or authorized by Section 37922.2 or by Section 7265.3 of the Government Code in connection with rehabilitation of a residence financed pursuant to this part, or in connection with demolition of a structure for the purpose of making land available for residential infill construction financed pursuant to this part. The cost of relocation payments may be included in the principal amount of a loan made to a participating party or may be paid directly from bond proceeds.

(j) "Residential infill construction" means the construction of new single-family or multifamily residences, excluding commercial or mixed residential and commercial structures and residential hotels, on vacant lots in residential rehabilitation areas, including lots cleared by demolition of an existing structure. However, the cost of demolition of existing structures shall not be eligible for financing under this part, and it is the intent of the Legislature that local agencies shall adopt lending policies and criteria which will

encourage rehabilitation of existing residences in residential rehabilitation areas wherever possible.

(k) "Residence" means real property improved with a residential structure and, in residential rehabilitation areas only, also includes real property improved with a commercial or mixed residential and commercial structure which, in the judgment of the local agency, is an integral part of a residential neighborhood. "Residence" also includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

"Residence" also includes residential hotels in which not less than one-half of the occupied dwelling units are occupied on a nontransient basis. A dwelling unit shall be deemed to be used on a nontransient basis for such purpose if the term of the tenancy is one month or longer or if the tenant has resided in the unit for more than 30 days. In a residential hotel, individual dwelling units shall lack either cooking facilities or individual sanitary facilities, or both. However, for purposes of this subdivision, a residential hotel does not include dormitories, fraternity and sorority houses, hospitals, sanitariums, rest homes, or trailer parks and courts.

(*l*) "Rehabilitation standards" means the applicable local or state standards for the rehabilitation of residences located in residential rehabilitation areas or rehabilitated pursuant to Section 37922.1, including any higher standards adopted by the local agency as part of its residential rehabilitation financing program.

(m) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the local agency from the financing of residential rehabilitation, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the bonds or to provide for the payment of the principal of, or interest on, the bonds and such other moneys as the legislative body may, in its discretion, make available therefor.

(n) "Residential rehabilitation area" means the geographical area designated by the local agency as one for inclusion in a comprehensive residential rehabilitation financing program pursuant to the provisions of this part.

SEC. 171. Section 52016 of the Health and Safety Code is amended to read:

52016. "Person" means any individual, partnership, copartnership, firm, company, corporation, limited liability company, lending institution, association, joint stock company, trust, estate, political subdivision, state agency or any other legal entity, or its legal representatives, agents or assigns.

SEC. 172. Section 19 of the Insurance Code is amended to read:

19. "Person" means any person, association, organization, partnership, business trust, limited liability company, or corporation.

SEC. 173. Section 729 of the Insurance Code is amended to read:

729. As used in this article, the following terms have the following meanings:

(a) "Company" means any person engaging in, or proposing or attempting to engage in, any transaction or kind of insurance or surety business and any person or group of persons who may otherwise be subject to the administrative, regulatory, or taxing authority of the commissioner.

(b) "Examiner" means any individual or firm authorized by the commissioner to conduct an examination under this article.

(c) "Person" means any person, association, organization, business trust, partnership, limited liability company, or corporation, or any affiliate thereof.

SEC. 174. Section 791.02 of the Insurance Code is amended to read:

791.02. As used in this act:

(a) (1) "Adverse underwriting decision" means any of the following actions with respect to insurance transactions involving insurance coverage which is individually underwritten:

(A) A declination of insurance coverage.

(B) A termination of insurance coverage.

(C) Failure of an agent to apply for insurance coverage with a specific insurance institution which the agent represents and which is requested by an applicant.

(D) In the case of a property or casualty insurance coverage:

(i) Placement by an insurance institution or agent of a risk with a residual market mechanism, with an unauthorized insurer, or with an insurance institution which provides insurance to other than preferred or standard risks, if in fact the placement is at other than a preferred or standard rate. An adverse underwriting decision, in case of placement with an insurance institution which provides insurance to other than preferred or standard risks, shall not include such placement where the applicant or insured did not specify or apply for placement as a preferred or standard risk or placement with a particular company insuring preferred or standard risks, or

(ii) The charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished.

(E) In the case of a life, health or disability insurance coverage, an offer to insure at higher than standard rates.

(2) Notwithstanding paragraph (1), any of the following actions shall not be considered adverse underwriting decisions but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

(A) The termination of an individual policy form on a class or statewide basis.

(B) A declination of insurance coverage solely because such coverage is not available on a class or statewide basis.

(C) The rescission of a policy.

(b) "Affiliate" or "affiliated" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(c) "Agent" means any person licensed pursuant to Chapter 5 (commencing with Section 1621), Chapter 5A (commencing with Section 1759), Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831).

(d) "Applicant" means any person who seeks to contract for insurance coverage other than a person seeking group insurance that is not individually underwritten.

(e) "Consumer report" means any written, oral or other communication of information bearing on a natural person's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living which is used or expected to be used in connection with an insurance transaction.

(f) "Consumer reporting agency" means any person who:

(1) Regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee.

(2) Obtains information primarily from sources other than insurance institutions.

(3) Furnishes consumer reports to other persons.

(g) "Control," including the terms "controlled by" or "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(h) "Declination of insurance coverage" means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage.

(i) "Individual" means any natural person who:

(1) In the case of property or casualty insurance, is a past, present or proposed named insured or certificate holder;

(2) In the case of life or disability insurance, is a past, present or proposed principal insured or certificate holder;

(3) Is a past, present or proposed policyowner;

(4) Is a past or present applicant; or

(5) Is a past or present claimant; or

(6) Derived, derives or is proposed to derive insurance coverage under an insurance policy or certificate subject to this act.

(j) "Institutional source" means any person or governmental entity that provides information about an individual to an agent, insurance institution or insurance-support organization, other than:

(1) An agent,

(2) The individual who is the subject of the information, or

(3) A natural person acting in a personal capacity rather than in

a business or professional capacity.

(k) "Insurance institution" means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance, including medical service plans and hospital service plans. "Insurance institution" shall not include agents, insurance-support organizations, or group practice prepayment health care service plans regulated pursuant to the Knox-Keene Health Care Service Plan Act, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(*l*) "Insurance-support organization" means:

(1) Any person who regularly engages, in whole or in part, in the business of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution or agent for insurance transactions, including:

(A) The furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for use in connection with an insurance transaction, or

(B) The collection of personal information from insurance institutions, agents or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation or material nondisclosure in connection with insurance underwriting or insurance claim activity.

(2) Notwithstanding paragraph (1), the following persons shall not be considered "insurance-support organizations": agents, governmental institutions, insurance institutions, medical care institutions, medical professionals, and peer review committees.

(m) "Insurance transaction" means any transaction involving insurance primarily for personal, family or household needs rather than business or professional needs which entails:

(1) The determination of an individual's eligibility for an insurance coverage, benefit or payment, or

(2) The servicing of an insurance application, policy, contract or certificate.

(n) "Investigative consumer report" means a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances or others who may have knowledge concerning such items of information.

(o) "Medical care institution" means any facility or institution that is licensed to provide health care services to natural persons, including but not limited to, hospitals, skilled nursing facilities, home health agencies, medical clinics, rehabilitation agencies and public health agencies.

(p) "Medical professional" means any person licensed or certified to provide health care services to natural persons, including but not limited to, a physician, dentist, nurse, optometrist, physical or occupational therapist, psychiatric social worker, clinical dietitian,

clinical psychologist, chiropractor, pharmacist, or speech therapist.

(q) "Medical record information" means personal information which:

(1) Relates to an individual's physical or mental condition, medical history or medical treatment, and

(2) Is obtained from a medical professional or medical care institution, from the individual, or from the individual's spouse, parent or legal guardian.

(r) "Person" means any natural person, corporation, association, partnership, limited liability company, or other legal entity.

(s) "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health or any other personal characteristics. "Personal information" includes an individual's name and address and "medical record information" but does not include "privileged information."

(t) "Policyholder" means any person who:

(1) In the case of individual property or casualty insurance, is a present named insured;

(2) In the case of individual life or disability insurance, is a present policyowner; or

(3) In the case of group insurance which is individually underwritten, is a present group certificate holder.

(u) "Pretext interview" means an interview whereby a person, in an attempt to obtain information about a natural person, performs one or more of the following acts:

(1) Pretends to be someone he or she is not,

(2) Pretends to represent a person he or she is not in fact representing,

(3) Misrepresents the true purpose of the interview, or

(4) Refuses to identify himself or herself upon request.

(v) "Privileged information" means any individually identifiable information that both:

(1) Relates to a claim for insurance benefits or a civil or criminal proceeding involving an individual.

(2) Is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding involving an individual. However, information otherwise meeting the requirements of this division shall nevertheless be considered "personal information" under this act if it is disclosed in violation of Section 791.13.

(w) "Residual market mechanism" means the California FAIR Plan Association, Chapter 10 (commencing with Section 10101) of Part 1 of Division 2, and the assigned risk plan, Chapter 1 (commencing with Section 11550) of Part 3 of Division 2.

(x) "Termination of insurance coverage" or "termination of an insurance policy" means either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the

failure to pay a premium as required by the policy.

(y) "Unauthorized insurer" means an insurance institution that has not been granted a certificate of authority by the commissioner to transact the business of insurance in this state.

(z) "Commissioner" means the Insurance Commissioner; except in the case of a person or entity subject to the provisions of the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code), and except as to any person defined in subdivision (k) when engaged in providing information or evaluation to a person or entity subject to the provisions of the Knox-Keene Health Care Service Plan Act of 1975, and in such instances only, the term "commissioner" shall mean the Commissioner of Corporations.

(aa) "Insurance" includes a medical service or hospital service agreement or contract issued by a person or entity subject to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

SEC. 175. Section 1067.04 of the Insurance Code is amended to read:

1067.04. As used in this article:

(a) "Account" means any of the three accounts created under Section 1067.05.

(b) "Association" means the California Life and Health Insurance Guarantee Association created pursuant to Section 1067.05.

(c) "Commissioner" means the Insurance Commissioner.

(d) "Contractual obligation" means any obligation under a policy or contract, or certificate under a group policy or contract, or portion thereof, for which coverage is provided under Section 1067.02.

(e) "Covered policy" means any policy or contract within the scope of this article under Section 1067.02.

(f) "Impaired insurer" means a member insurer that, after October 1, 1990, is not an insolvent insurer, and (1) is deemed by the commissioner to be potentially unable to fulfill its contractual obligations or (2) is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(g) "Health insurance" means the class of insurance described as disability insurance in Section 106.

(h) "Insolvent insurer" means a member insurer that, after October 1, 1990, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

(i) "Member insurer" means any insurer licensed or that holds a certificate of authority to transact in this state any kind of insurance for which coverage is provided under Section 1067.02 and includes any insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn, but does not include any of the following:

(1) A fraternal benefit society.

(2) A mandatory state pooling plan.

(3) A mutual assessment company or any entity that operates on an assessment basis.

(4) An insurance exchange.

(5) A nonprofit hospital service plan.

(6) A health care service plan.

(7) A grants and annuities society holding a certificate of authority under Section 11520.

(8) Any entity similar to any of the above.

(j) "Moody's Corporate Bond Yield Average" means the Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto.

(k) "Person" means any individual, corporation, partnership, limited liability company, association, or voluntary organization.

(*l*) "Premiums" means amounts received on covered policies or contracts less premiums, considerations, and deposits returned thereon, and less dividends and experience credits thereon. "Premiums" does not include any amounts received for any policies or contracts or for the portions of any policies or contracts for which coverage is not provided under subdivision (b) of Section 1067.02 except that assessable premium shall not be reduced on account of paragraph (2) of subdivision (c) of Section 1067.02 relating to limitations with respect to any one individual, any one participant, and any one contractholder; provided that "premiums" shall not include any premiums in excess of five million dollars ($5,000,000) with respect to multiple policies of individual life insurance issued to any one owner, whether the policyowner is an individual, firm, corporation, limited liability company, or other legal entity, and whether the persons insured are officers, managers, employees, or other persons in whose lives the policyowner has an insurable interest, regardless of the number of policies held by the owner.

(m) "Resident" means any person who resides in this state at the time a member insurer is determined to be an impaired or insolvent insurer and to whom a contractual obligation is owed. A person may be a resident of only one state, which in the case of a person other than a natural person shall be its principal place of business.

(n) "Supplemental contract" means any agreement entered into for the distribution of policy or contract proceeds.

(o) "Unallocated annuity contract" means any annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under that contract or certificate, and except to the extent allowed in subparagraph (D) of paragraph (2) of subdivision (b) of Section 1067.02.

SEC. 176. Section 14001 of the Insurance Code is amended to read:

14001. As used in this chapter:

(a) "Commissioner" means the Insurance Commissioner.

(b) "Department" means the Department of Insurance.

(c) "Licensee" means a person licensed under this chapter.

(d) "Manager" means the individual under whose direction, control, charge, or management the business of a licensee is operated.

(e) "Person" includes any individual, firm, company, association, organization, partnership, limited liability company, and corporation.

SEC. 177. Section 15001 of the Insurance Code is amended to read:

15001. As used in this chapter:

(a) "Commissioner" means the Insurance Commissioner.

(b) "Department" means the Department of Insurance.

(c) "Licensee" means a person licensed under this chapter.

(d) "Person" includes any individual, firm, company, association, organization, partnership, limited liability company, and corporation.

SEC. 178. Section 18 of the Labor Code is amended to read:

18. "Person" means any person, association, organization, partnership, business trust, limited liability company, or corporation.

SEC. 179. Section 1117 of the Labor Code is amended to read:

1117. As used herein, "labor organization" means any organization or any agency or employee representation committee or any local unit thereof in which employees participate, and exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, hours of employment or conditions of work, which labor organization is not found to be or to have been financed in whole or in part, interfered with, dominated or controlled by the employer or any employer association within one year of the commencement of any proceeding brought under this chapter. The plaintiff shall have the affirmative of the issue with respect to establishing the existence of a "labor organization" as defined herein.

As used herein, "person" means any person, association, organization, partnership, corporation, limited liability company, unincorporated association, or labor organization.

SEC. 180. Section 1132.2 of the Labor Code is amended to read:

1132.2. "Employer" means a person, partnership, firm, corporation, association, or other entity, which employs any person or persons to perform services for a wage or salary, and includes any person, partnership, firm, corporation, limited liability company, association or other entity acting as an agent of an employer, directly or indirectly.

SEC. 181. Section 1140.4 of the Labor Code is amended to read:

1140.4. As used in this part:

(a) The term "agriculture" includes farming in all its branches, and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in Section 1141j(g) of Title 12 of the United States Code), the raising of livestock, bees,

furbearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market.

(b) The term "agricultural employee" or "employee" shall mean one engaged in agriculture, as such term is defined in subdivision (a). However, nothing in this subdivision shall be construed to include any person other than those employees excluded from the coverage of the National Labor Relations Act, as amended, as agricultural employees, pursuant to Section 2(3) of the Labor Management Relations Act (Section 152(3), Title 29, United States Code), and Section 3(f) of the Fair Labor Standards Act (Section 203(f), Title 29, United States Code).

Further, nothing in this part shall apply, or be construed to apply, to any employee who performs work to be done at the site of the construction, alteration, painting, or repair of a building, structure, or other work (as these terms have been construed under Section 8(e) of the Labor Management Relations Act, 29 U.S.C. Sec. 158(e)) or logging or timber-clearing operations in initial preparation of land for farming, or who does land leveling or only land surveying for any of the above.

As used in this subdivision, "land leveling" shall include only major land moving operations changing the contour of the land, but shall not include annual or seasonal tillage or preparation of land for cultivation.

(c) The term "agricultural employer" shall be liberally construed to include any person acting directly or indirectly in the interest of an employer in relation to an agricultural employee, any individual grower, corporate grower, cooperative grower, harvesting association, hiring association, land management group, any association of persons or cooperatives engaged in agriculture, and shall include any person who owns or leases or manages land used for agricultural purposes, but shall exclude any person supplying agricultural workers to an employer, any farm labor contractor as defined by Section 1682, and any person functioning in the capacity of a labor contractor. The employer engaging such labor contractor or person shall be deemed the employer for all purposes under this part.

(d) The term "person" shall mean one or more individuals, corporations, partnerships, limited liability companies, associations, legal representatives, trustees in bankruptcy, receivers, or any other legal entity, employer, or labor organization having an interest in the outcome of a proceeding under this part.

(e) The term "representatives" includes any individual or labor organization.

(f) The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists, in whole or in part,

for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work for agricultural employees.

(g) The term "unfair labor practice" means any unfair labor practice specified in Chapter 4 (commencing with Section 1153) of this part.

(h) The term "labor dispute" includes any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(i) The term "board" means Agricultural Labor Relations Board.

(j) The term "supervisor" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

SEC. 182. Section 1500 of the Labor Code is amended to read:

1500. The following definitions shall govern the construction of this chapter:

(a) "Person" means any individual, company, corporation, association, partnership, limited liability company, or their agents or employees.

(b) "Athlete agent" means any person who, as an independent contractor, directly or indirectly, recruits or solicits any person to enter into any agent contract or professional sport services contract, or for a fee procures, offers, promises, or attempts to obtain employment for any person with a professional sport team or as a professional athlete.

"Athlete agent" does not include any employee or other representative of a professional sport team, and does not include any member of the State Bar of California when acting as legal counsel for any person.

(c) "Agent contract" means any contract or agreement pursuant to which a person authorizes or empowers an athlete agent to negotiate or solicit on behalf of the person with one or more professional sport teams for the employment of the person by one or more professional sport teams, or to negotiate or solicit on behalf of the person for the employment of the person as a professional athlete.

(d) "Professional sport services contract" means any contract or agreement pursuant to which a person is employed or agrees to render services as a player on a professional sport team or as a professional athlete.

SEC. 183. Section 1682 of the Labor Code is amended to read:

1682. As used in this chapter:

(a) "Person" includes any individual, firm, partnership, association, limited liability company, or corporation.

(b) "Farm labor contractor" designates any person who, for a fee, employs workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing or producing of farm products, and who, for a fee, provides in connection therewith one or more of the following services: furnishes board, lodging, or transportation for those workers; supervises, times, checks, counts, weighs, or otherwise directs or measures their work; or disburses wage payments to these persons.

(c) "License" means a license issued by the Labor Commissioner to carry on the business, activities, or operations of a farm labor contractor under this chapter.

(d) "Licensee" means a farm labor contractor who holds a valid and unrevoked license under this chapter.

(e) "Fee" shall mean (1) the difference between the amount received by a labor contractor and the amount paid out by him or her to persons employed to render personal services to, for or under the direction of a third person; (2) any valuable consideration received or to be received by a farm labor contractor for or in connection with any of the services described above, and shall include the difference between any amount received or to be received by him or her, and the amount paid out by him or her, for or in connection with the rendering of such services.

SEC. 184. Section 1700 of the Labor Code is amended to read:

1700. As used in this chapter, "person" means any individual, company, society, firm, partnership, association, corporation, limited liability company, manager, or their agents or employees.

SEC. 185. Section 2650 of the Labor Code is amended to read:

2650. As used in this part:

(a) "To manufacture" means to make, process, prepare, alter, repair, or finish in whole or in part, or to assemble, inspect, wrap, or package any articles or materials.

(b) "Employer" means any person who, directly or indirectly or through an employee, agent, independent contractor, or any other person, employs an industrial homeworker.

(c) "Home" means any room, house, apartment, or other premises, whichever is most extensive, used in whole or in part as a place of dwelling; and includes outbuildings upon premises that are primarily used as a place of dwelling, where such outbuildings are under the control of the person dwelling on such premises.

(d) "Industrial homework" means any manufacture in a home of materials or articles for an employer when such articles or materials are not for the personal use of the employer or a member of his or her family.

(e) "Division" means the Division of Labor Standards Enforcement.

(f) "Industrial homeworker" means any person who does industrial homework.

(g) "To employ" means to engage, suffer or permit any person to do industrial homework, or to tolerate, suffer, or permit articles or materials under one's custody or control to be manufactured in a home by industrial homework.

(h) "Person" means any individual, partnership and each partner thereof, corporation, limited liability company, or association.

SEC. 186. Section 2671 of the Labor Code is amended to read:

2671. As used in this part:

(a) "Person" means any individual, partnership, corporation, limited liability company, or association, and includes, but is not limited to, employers, manufacturers, jobbers, wholesalers, contractors, and subcontractors.

"Person" does not include any person who manufactures garments by himself or herself, without the assistance of a contractor, employee, or others; any person who engages solely in that part of the business engaged solely in cleaning, alteration, or tailoring; any person who engages in the activities herein regulated as an employee with wages as his or her sole compensation; or any person as provided by regulation.

(b) "Garment manufacturing" means sewing, cutting, making, processing, repairing, finishing, assembling, or otherwise preparing any garment or any article of wearing apparel or accessories designed or intended to be worn by any individual, including, but not limited to, clothing, hats, gloves, handbags, hosiery, ties, scarfs, and belts, for sale or resale by any person or any persons contracting to have the above operations performed.

(c) "Commissioner" means the Labor Commissioner.

SEC. 186.1. Section 5156 of the Labor Code is amended to read:

5156. As used in this part:

(a) "Advertisement" means any written or printed communication or any communication by means of recorded telephone messages or by radio, television, or similar communications media, published in connection with the offer or sale of health care contracts.

(b) "Authorize" means, and "authorized" refers to, an authorization as a workers' compensation health care provider organization pursuant to Section 5163. "Authorize" shall have no legal meaning outside of health care for occupational injuries or illnesses.

(c) "Commissioner" means the Commissioner of Corporations.

(d) "Disclosure form" means any certificate, agreement, contract, brochure, or other materials issued or otherwise disseminated to an employee and employer setting forth the workers' compensation health care, and terms of that care, as required to be provided by Sections 4600.3 and 4600.5 to which the

employee is entitled.

(e) "Employee" means an individual who has elected to receive workers' compensation health care from an authorized workers' compensation health care provider organization.

(f) "Workers' compensation health care provider organization" or "organization" means a person organized to provide, either directly or indirectly, workers' compensation health care.

(g) "Provider" means any professional person or other person licensed by the state to deliver or furnish workers' compensation health care.

(h) "Person" means any person, individual, firm, association, organization, partnership, business trust, foundation, labor organization, corporation, limited liability company, public agency, or political subdivision of the state.

(i) "Service area" means a geographical area designated by the organization within which the organization shall provide workers' compensation health care.

(j) "Solicitation" means any presentation or advertising conducted by, or on behalf of, an organization, where information regarding the organization, or workers' compensation health care offered and charges therefor, is disseminated for the purpose of inducing persons to subscribe to, or enroll in, the organization.

(k) "Solicitor" means any person who engages in the acts defined in subdivision (j).

(*l*) "Solicitor firm" means any person, other than an organization, who through one or more solicitors, engages in the acts defined in subdivision (k).

(m) "Workers' compensation health care" or "health care" means those services, treatment, and care for work-related injuries required by this code.

(n) All references in this part to financial statements, assets, liabilities, and other accounting items mean such financial statements and accounting items prepared or determined in accordance with generally accepted accounting principles, and fairly presenting the matters that they purport to present, subject to any specific requirement imposed by this part or by the commissioner.

SEC. 187. Section 480.2 of the Military and Veterans Code is amended to read:

480.2. The following terms, wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Department" means the Military Department of the State of California, as the same is constituted by the provisions of Section 50, and any successor to such office, or the Department of Veterans Affairs or the California Housing Finance Agency as to any function assigned pursuant to the provisions of Section 270.04.

(b) "Person" means any individual, firm, corporation, association, partnership, limited liability company, trust, business trust, or receiver or trustee or conservator for any thereof, but does not

include this state or any public corporation, political subdivision, city, county, district, or agency of this state.

(c) "Purchase contract" means a contract of sale entered into after the effective date of this chapter by the department and a National Guard member covering any property purchased or acquired by the department as may be provided in any resolution of issuance.

(d) "Resolution of issuance" means a resolution of the department, approved by the National Guard Members' Finance Committee, pursuant to which revenue bonds are issued, and any amendatory or supplemental resolution.

(e) "Revenue bond" means any written evidence of any obligation issued by the department pursuant to this chapter, payment of which is secured by a pledge of revenues, as provided in this chapter, irrespective of the form of such obligation.

(f) "Revenue bondholder" means any person who shall be the bearer or registered owner of any outstanding revenue bond.

(g) "Revenues" means all income and receipts of the department from the purchase contracts, including, without limiting the generality of the foregoing, all payments received on account of the selling price and interest thereon; expenses and all other charges added to the selling price; insurance proceeds collected on account of loss, damage, or injury to the property; life insurance or disability insurance proceeds received by the department; and all other receipts of whatsoever kind or nature arising out of or incident to the purchase contracts. The term "revenues" also includes all interest or other income from any investment of any moneys in any fund or account established under a resolution of issuance for the payment of the principal of, or interest or premium on, revenue bonds.

(h) "California National Guard member" shall have the meaning set forth in Section 210.

(i) "California National Guard Finance Committee" means the committee created pursuant to Section 270.365.

SEC. 188. Section 1000.2 of the Military and Veterans Code is amended to read:

1000.2. The following terms, wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Department" means the Department of Veterans Affairs of the State of California, as the same is constituted by the provisions of Section 63 of this code, and any successor to such office.

(b) "Veterans' Debenture Finance Committee" means the committee constituted pursuant to the provisions of Section 1000.3 of this code.

(c) "Debenture" means any written evidence of any obligation issued by the department pursuant to this chapter, payment of which is secured by a pledge of revenues, as provided in this chapter, irrespective of the form of such obligation.

(d) "Debenture holder" means any person who shall be the

bearer of any outstanding debenture registered to bearer not registered, or the registered owner of any outstanding debenture which shall at the time be registered other than to bearer.

(e) "Veteran" shall have the meaning set forth in Section 980 of this code.

(f) "Pledged contracts" means contracts of sale entered into by the department and veterans covering any property purchased or acquired by the department from the proceeds of debentures as may be provided in any resolution of issuance and to the extent therein provided.

(g) "Surplus money" means funds not required to meet any immediate demand which has accrued against the Veterans' Farm and Home Building Fund of 1943 without regard to fiscal years.

(h) "Revenues" means all income and receipts of the department from the pledged contracts, including, without limiting the generality of the foregoing, all payments received in account of the selling price, interest thereon, expenses and all other charges added to the selling price, insurance proceeds collected on account of loss, damage or injury to the property, life insurance or disability insurance proceeds received by the department, and all other receipts of whatsoever kind or nature arising out of or incident to the pledged contracts.

The term "revenues" also includes all interest or other income from any investment of any moneys in any fund established under a resolution of issuance for the payment of the principal of, or interest or premium on, debentures.

(i) "Resolution of issuance" means a resolution of the department, approved by the Veterans' Debenture Finance Committee, pursuant to which debentures are issued, and any amendatory or supplemental resolutions.

(j) "Person" means any individual, firm, corporation, association, partnership, limited liability company, trust, business trust, or receiver or trustee or conservator for any thereof, but does not include this state or any public corporation, political subdivision, city, county, district or agency of this state.

SEC. 189. Section 311 of the Penal Code is amended to read:

311. As used in this chapter, the following definitions shall control the meaning of the respective terms:

(a) "Obscene matter" means matter taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest, and is matter which, taken as a whole, depicts or describes in a patently offensive way sexual conduct; and which, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(1) When it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for clearly defined deviant sexual groups, the appeal of the matter shall be judged with reference to its intended recipient group.

(2) In prosecutions under this chapter, where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that matter is being commercially exploited by the defendant for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter lacks serious literary, artistic, political, or scientific value.

(3) In determining whether the matter taken as a whole lacks serious literary, artistic, political, or scientific value in description or representation of such matters, the fact that the defendant knew that the matter depicts persons under the age of 16 years engaged in sexual conduct, as defined in subdivision (c) of Section 311.4, is a factor which can be considered in making that determination.

(b) "Matter" means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines or materials. "Matter" also means live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction.

(c) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.

(d) "Distribute" means to transfer possession of, whether with or without consideration.

(e) "Knowingly" means being aware of the character of the matter or live conduct.

(f) "Exhibit" means to show.

(g) "Obscene live conduct" means any physical human body activity, whether performed or engaged in alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming, taken as a whole, which to the average person, applying contemporary statewide standards to the prurient interest and is conduct which, taken as a whole, depicts or describes in a patently offensive way sexual conduct and which, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(1) When it appears from the nature of the conduct or the circumstances of its production, presentation or exhibition that it is designed for clearly defined deviant sexual groups, the appeal of the conduct shall be judged with reference to its intended recipient group.

(2) In prosecutions under this chapter, where circumstances of production, presentation, advertising, or exhibition indicate that live conduct is being commercially exploited by the defendant for the sake of its prurient appeal, that evidence is probative with respect to the nature of the conduct and can justify the conclusion that the conduct lacks serious literary, artistic, political, or scientific value.

(3) In determining whether the live conduct taken as a whole

lacks serious literary, artistic, political, or scientific value in description or representation of such matters, the fact that the defendant knew that the live conduct depicts persons under the age of 16 years engaged in sexual conduct, as defined in subdivision (c) of Section 311.4, is a factor which can be considered in making that determination.

SEC. 190. Section 313 of the Penal Code is amended to read:

313. As used in this chapter:

(a) "Harmful matter" means matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest, and is matter which, taken as a whole, depicts or describes in a patently offensive way sexual conduct and which, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(1) When it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for clearly defined deviant sexual groups, the appeal of the matter shall be judged with reference to its intended recipient group.

(2) In prosecutions under this chapter, where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that matter is being commercially exploited by the defendant for the sake of its prurient appeal, that evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter lacks serious literary, artistic, political, or scientific value for minors.

(b) "Matter" means any book, magazine, newspaper, video recording, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording, transcription, or mechanical, chemical, or electrical reproduction or any other articles, equipment, machines, or materials. "Matter" also includes live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction.

(c) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.

(d) "Distribute" means to transfer possession of, whether with or without consideration.

(e) "Knowingly" means being aware of the character of the matter.

(f) "Exhibit" means to show.

(g) "Minor" means any natural person under 18 years of age.

SEC. 191. Section 374.2 of the Penal Code is amended to read:

374.2. (a) It is unlawful for any person to maliciously discharge, dump, release, place, drop, pour, or otherwise deposit, or to maliciously cause to be discharged, dumped, released, placed, dropped, poured, or otherwise deposited, any substance capable of causing substantial damage or harm to the operation of a public sewer sanitary facility, or to deposit in commercial quantities any

other substance, into a manhole, cleanout, or other sanitary sewer facility, not intended for use as a point of deposit for sewage, which is connected to a public sanitary sewer system, without possessing a written authorization therefor granted by the public entity which is charged with the administration of the use of the affected public sanitary sewer system or the affected portion of the public sanitary sewer system.

As used in this section, "maliciously" means an intent to do a wrongful act.

(b) For the purposes of this section "person" means an individual, trust, firm, partnership, joint stock company, limited liability company, or corporation, and "deposited in commercial quantities" refers to any substance deposited or otherwise discharged in any amount greater than for normal domestic sewer use.

(c) Lack of specific knowledge that the facility into which the prohibited discharge or release occurred is connected to a public sanitary sewer system shall not constitute a defense to a violation charged under this section.

(d) Any person who violates this section shall be punished by imprisonment in the county jail for not more than one year, or by a fine of up to twenty-five thousand dollars ($25,000), or by both a fine and imprisonment. If the conviction is for a second or subsequent violation, the person shall be punished by imprisonment in the county jail for not more than one year, or imprisonment in the state prison for 16, 20, or 24 months, and by a fine of not less than five thousand dollars ($5,000) or more than twenty-five thousand dollars ($25,000).

SEC. 192. Section 498 of the Penal Code is amended to read:

498. (a) The following definitions govern the construction of this section:

(1) "Person" means any individual, or any partnership, firm, association, corporation, limited liability company, or other legal entity.

(2) "Utility" means any electrical, gas, or water corporation as those terms are defined in the Public Utilities Code, and electrical, gas, or water systems operated by any political subdivision.

(3) "Customer" means the person in whose name utility service is provided.

(4) "Utility service" means the provision of electricity, gas, water, or any other service provided by the utility for compensation.

(5) "Divert" means to change the intended course or path of electricity, gas, or water without the authorization or consent of the utility.

(6) "Tamper" means to rearrange, injure, alter, interfere with, or otherwise prevent from performing a normal or customary function.

(7) "Reconnection" means the reconnection of utility service by a customer or other person after service has been lawfully disconnected by the utility.

(b) Any person who, with intent to obtain for himself or herself

utility services without paying the full lawful charge therefor, or with intent to enable another person to do so, or with intent to deprive any utility of any part of the full lawful charge for utility services it provides, commits, authorizes, solicits, aids, or abets any of the following shall be guilty of a misdemeanor:

(1) Diverts or causes to be diverted utility services, by any means whatsoever.

(2) Prevents any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function by tampering or by any other means.

(3) Tampers with any property owned by or used by the utility to provide utility services.

(4) Makes or causes to be made any connection with or reconnection with property owned or used by the utility to provide utility services without the authorization or consent of the utility.

(5) Uses or receives the direct benefit of all or a portion of utility services with knowledge or reason to believe that the diversion, tampering, or unauthorized connection existed at the time of that use, or that the use or receipt was otherwise without the authorization or consent of the utility.

(c) In any prosecution under this section, the presence of any of the following objects, circumstances, or conditions on premises controlled by the customer or by the person using or receiving the direct benefit of all or a portion of utility services obtained in violation of this section shall permit an inference that the customer or person intended to and did violate this section:

(1) Any instrument, apparatus, or device primarily designed to be used to obtain utility services without paying the full lawful charge therefor.

(2) Any meter that has been altered, tampered with, or bypassed so as to cause no measurement or inaccurate measurement of utility services.

(d) If the value of all utility services obtained in violation of this section totals more than four hundred dollars ($400) or if the defendant has previously been convicted of an offense under this section or any former section which would be an offense under this section, or of an offense under the laws of another state or of the United States which would have been an offense under this section if committed in this state, then the violation is punishable by imprisonment in the county jail for not more than one year, or in the state prison.

(e) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state.

SEC. 193. Section 574 of the Penal Code is amended to read:

574. As used in this chapter, the following terms have the following meanings:

(a) "Buyer" has the meaning set forth in subdivision (c) of Section 2981 of the Civil Code.

(b) "Conditional sale contract" has the meaning set forth in subdivision (a) of Section 2981 of the Civil Code. Notwithstanding subdivision (k) of Section 2981 of the Civil Code, "conditional sale contract" includes any contract for the sale or bailment of a motor vehicle between a buyer and a seller primarily for business or commercial purposes.

(c) "Direct loan agreement" means an agreement between a lender and a purchaser whereby the lender has advanced funds pursuant to a loan secured by the motor vehicle which the purchaser has purchased.

(d) "Lease contract" means a lease contract between a lessor and lessee as this term and these parties are defined in Section 2985.7 of the Civil Code. Notwithstanding subdivision (d) of Section 2985.7 of the Civil Code, "lease contract" includes a lease for business or commercial purposes.

(e) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code.

(f) "Person" means an individual, company, firm, association, partnership, trust, corporation, limited liability company, or other legal entity.

(g) "Purchaser" has the meaning set forth in subdivision (33) of Section 1201 of the Commercial Code.

(h) "Security agreement" and "secured party" have the meanings set forth, respectively, in paragraphs (*l*) and (m) of subdivision (1) of Section 9105 of the Commercial Code. "Security interest" has the meaning set forth in subdivision (37) of Section 1201 of the Commercial Code.

(i) "Seller" has the meaning set forth in subdivision (b) of Section 2981 of the Civil Code, and includes the present holder of the conditional sale contract.

SEC. 194. Section 632 of the Penal Code is amended to read:

632. (a) Every person who, intentionally and without the consent of all parties to a confidential communication, by means of any electronic amplifying or recording device, eavesdrops upon or records the confidential communication, whether the communication is carried on among the parties in the presence of one another or by means of a telegraph, telephone, or other device, except a radio, shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500), or imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment. If the person has previously been convicted of a violation of this section or Section 631, 632.5, 632.6, 632.7, or 636, the person shall be punished by a fine not exceeding ten thousand dollars ($10,000), by imprisonment in the county jail not exceeding one year, or in the state prison, or by both that fine and imprisonment.

(b) The term "person" includes an individual, business association, partnership, corporation, limited liability company, or other legal entity, and an individual acting or purporting to act for

or on behalf of any government or subdivision thereof, whether federal, state, or local, but excludes an individual known by all parties to a confidential communication to be overhearing or recording the communication.

(c) The term "confidential communication" includes any communication carried on in circumstances as may reasonably indicate that any party to the communication desires it to be confined to the parties thereto, but excludes a communication made in a public gathering or in any legislative, judicial, executive or administrative proceeding open to the public, or in any other circumstance in which the parties to the communication may reasonably expect that the communication may be overheard or recorded.

(d) Except as proof in an action or prosecution for violation of this section, no evidence obtained as a result of eavesdropping upon or recording a confidential communication in violation of this section shall be admissible in any judicial, administrative, legislative, or other proceeding.

(e) This section does not apply (1) to any public utility engaged in the business of providing communications services and facilities, or to the officers, employees or agents thereof, where the acts otherwise prohibited by this section are for the purpose of construction, maintenance, conduct or operation of the services and facilities of the public utility, or (2) to the use of any instrument, equipment, facility, or service furnished and used pursuant to the tariffs of a public utility, or (3) to any telephonic communication system used for communication exclusively within a state, county, city and county, or city correctional facility.

(f) This section does not apply to the use of hearing aids and similar devices, by persons afflicted with impaired hearing, for the purpose of overcoming the impairment to permit the hearing of sounds ordinarily audible to the human ear.

SEC. 195. Section 637.5 of the Penal Code is amended to read:

637.5. (a) No person who owns, controls, operates, or manages a cable television corporation, or who leases channels on a cable system shall:

(1) Use any electronic device to record, transmit, or observe any events or listen to, record, or monitor any conversations which take place inside a subscriber's residence, workplace, or place of business, without obtaining the express written consent of the subscriber. A cable television corporation may conduct electronic sweeps of subscriber households to monitor for signal quality.

(2) Provide any person with any individually identifiable information regarding any of its subscribers, including, but not limited to, the subscriber's television viewing habits, shopping choices, interests, opinions, energy uses, medical information, banking data or information, or any other personal or private information, without the subscriber's express written consent.

(b) Individual subscriber viewing responses or other individually

identifiable information derived from subscribers may be retained and used by a cable television corporation only to the extent reasonably necessary for billing purposes and internal business practices, and to monitor for unauthorized reception of services. A cable television corporation may compile, maintain, and distribute a list containing the names and addresses of its subscribers if the list contains no other individually identifiable information and if subscribers are afforded the right to elect not to be included on such lists. However, a cable television corporation shall maintain adequate safeguards to ensure the physical security and confidentiality of any such subscriber information.

(c) A cable television corporation shall not make individual subscriber information available to government agencies in the absence of legal compulsion, including, but not limited to, a court order or subpoena. If requests for such information are made, a cable television corporation shall promptly notify the subscriber of the nature of the request and what government agency has requested the information prior to responding unless otherwise prohibited from doing so by law.

Nothing in this section shall be construed to prevent local franchising authorities from obtaining information necessary to monitor franchise compliance pursuant to franchise or license agreements. This information shall be provided so as to omit individually identifiable subscriber information whenever possible. Information obtained by local franchising authorities shall be used solely for monitoring franchise compliance and shall not be subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250), Division 7, Title 1, Government Code).

(d) Any individually identifiable subscriber information gathered by a cable television corporation shall be made available for subscriber examination within 30 days of receiving a request by a subscriber to examine such information on the premises of the corporation. Upon a reasonable showing by the subscriber that the information is inaccurate, a cable television corporation shall correct such information. Subscribers shall bear all costs of copying any records or information gathered by the cable television corporation and supplied to the subscriber.

(e) Upon a subscriber's application for cable television service, including, but not limited to, interactive service, a cable television corporation shall provide the applicant with a separate notice in an appropriate form explaining the subscriber's right to privacy protection afforded by this section.

(f) As used in this section:

(1) "Cable television corporation" shall have the same meaning as that term is given by Section 215.5 of the Public Utilities Code.

(2) "Individually identifiable information" means any information identifying an individual or his or her use of any service provided by a cable system other than the mere fact that such individual is a cable television subscriber.

(3) "Person" includes an individual, business association, partnership, corporation, limited liability company, or other legal entity, and an individual acting or purporting to act for or on behalf of any government, or subdivision thereof, whether federal, state, or local.

(4) "Interactive service" means any service offered by a cable television corporation involving the collection, reception, aggregation, storage, or use of electronic information transmitted from a subscriber to any other receiving point under the control of the cable television corporation, or vice versa.

(g) Nothing in this section shall be construed to limit the ability of a cable television corporation to market cable television or ancillary services to its subscribers.

(h) Any person receiving subscriber information from a cable television corporation shall be subject to the provisions of this section.

(i) Any aggrieved person may commence a civil action for damages for invasion of privacy against any cable television corporation, service provider, or person that leases a channel or channels on a cable television system that violates the provisions of this section.

(j) Any person who violates the provisions of this section is guilty of a misdemeanor punishable by a fine not exceeding three thousand dollars ($3,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(k) The penalties and remedies provided by subdivisions (i) and (j) are cumulative, and shall not be construed as restricting any penalty or remedy, provisional or otherwise, provided by law for the benefit of any person, and no judgment under this section shall preclude any person from obtaining additional relief based upon the same facts.

(*l*) The provisions of this section are intended to set forth minimum state standards for protecting the privacy of subscribers to cable television services and are not intended to preempt more restrictive local standards.

SEC. 196. Section 639 of the Penal Code is amended to read:

639. Every person who gives, offers, or agrees to give to any director, officer, or employee of a financial institution any emolument, gratuity, or reward, or any money, property, or thing of value for his own personal benefit or of personal advantage, for procuring or endeavoring to procure for any person a loan or extension of credit from such financial institution is guilty of a felony.

As used in this section and Section 639a, "financial institution" means any person or persons engaged in the business of making loans or extending credit or procuring the making of loans or extension of credit, including, but not limited to, state and federal banks, savings and loan associations, trust companies, industrial loan companies, personal property brokers, consumer finance lenders, commercial finance lenders, credit unions, escrow companies, title insurance

companies, insurance companies, small business investment companies, pawnbrokers, and retirement funds.

As used in this section and Section 639a the word "person" includes any person, firm, partnership, association, corporation, limited liability company, company, syndicate, estate, trust, business trust, or organization of any kind.

SEC. 197. Section 653h of the Penal Code is amended to read:

653h. (a) Every person is guilty of a public offense punishable as provided in subdivisions (b) and (c), who:

(1) Knowingly and willfully transfers or causes to be transferred any sounds that have been recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, with intent to sell or cause to be sold, or to use or cause to be used for commercial advantage or private financial gain through public performance, the article on which the sounds are so transferred, without the consent of the owner.

(2) Transports for monetary or like consideration within this state or causes to be transported within this state any such article with the knowledge that the sounds thereon have been so transferred without the consent of the owner.

(b) Any person who has been convicted of a violation of subdivision (a), shall be punished by imprisonment in the county jail not to exceed one year, by imprisonment in the state prison for two, three, or five years, or by a fine not to exceed two hundred fifty thousand dollars ($250,000), or by both, if the offense involves the transfer or transportation, or conduct causing that transfer or transportation, of not less than 1,000 of the articles described in subdivision (a).

(c) Any person who has been convicted of any other violation of subdivision (a) not described in subdivision (b), shall be punished by imprisonment in the county jail not to exceed one year, or by a fine of not more than twenty-five thousand dollars ($25,000), or by both. A second or subsequent conviction under subdivision (a) not described in subdivision (b) shall be punished by imprisonment in the state prison or by a fine not to exceed one hundred thousand dollars ($100,000), or by both.

(d) Every person who offers for sale or resale, or sells or resells, or causes the sale or resale, or rents, or possesses for these purposes, any article described in subdivision (a) with knowledge that the sounds thereon have been so transferred without the consent of the owner is guilty of a public offense.

(1) A violation of subdivision (d) involving not less than 100 of those articles shall be punishable by imprisonment in a county jail not to exceed one year or by a fine not to exceed ten thousand dollars ($10,000), or by both. A second or subsequent conviction for the conduct described in this paragraph shall be punishable by imprisonment in the county jail not to exceed one year or in the state prison, or by a fine not to exceed twenty-five thousand dollars ($25,000), or by both.

(2) A person who has been convicted of any violation of this subdivision not described in paragraph (1) shall be punished by imprisonment in the county jail not to exceed six months or by a fine not to exceed five thousand dollars ($5,000), or by both. A second conviction for the conduct described in this paragraph shall be punishable by imprisonment in the county jail not to exceed one year or by a fine not to exceed ten thousand dollars ($10,000), or by both. A third or subsequent conviction for the conduct described in this paragraph shall be punishable by imprisonment in the county jail not to exceed one year or in the state prison, or by a fine not to exceed twenty-five thousand dollars ($25,000), or by both.

(e) As used in this section, "person" means any individual, partnership, partnership's member or employee, corporation, limited liability company, association or corporation or association employee, officer or director; "owner" means the person who owns the original master recording embodied in the master phonograph record, master disc, master tape, master film or other article used for reproducing recorded sounds on phonograph records, discs, tapes, films or other articles on which sound is or can be recorded, and from which the transferred recorded sounds are directly or indirectly derived; and "master recording" means the original fixation of sounds upon a recording from which copies can be made.

(f) This section shall neither enlarge nor diminish the right of parties in private litigation.

(g) This section does not apply to any person engaged in radio or television broadcasting who transfers, or causes to be transferred, any such sounds (other than from the sound track of a motion picture) intended for, or in connection with broadcast transmission or related uses, or for archival purposes.

(h) This section does not apply to any not-for-profit educational institution or any federal or state governmental entity, if the institution or entity has as a primary purpose the advancement of the public's knowledge and the dissemination of information regarding America's musical cultural heritage, provided that this purpose is clearly set forth in the institution's or entity's charter, bylaws, certificate of incorporation, or similar document, and the institution or entity has, prior to the transfer, made a good faith effort to identify and locate the owner or owners of the sound recordings to be transferred and, provided that the owner or owners could not be and have not been located. Nothing in this section shall be construed to relieve an institution or entity of its contractual or other obligation to compensate the owners of sound recordings to be transferred. In order to continue the exemption permitted by this subdivision, the institution or entity shall make continuing efforts to locate such owners and shall make an annual public notice of the fact of the transfers in newspapers of general circulation serving the jurisdictions where the owners were incorporated or doing business at the time of initial affixations. The institution or entity shall keep on file a record of the efforts made to locate such owners for

inspection by appropriate governmental agencies.

(i) This section applies only to such articles that were initially mastered prior to February 15, 1972.

SEC. 198. Section 653.56 of the Penal Code is amended to read:

653.56. For purposes of this chapter:

(a) "Compensation" means money, property, or anything else of value.

(b) "Immigration matter" means any proceeding, filing, or action affecting the immigration or citizenship status of any person which arises under immigration and naturalization law, executive order or presidential proclamation, or action of the United States Immigration and Naturalization Service, the United States Department of State or the United States Department of Labor.

(c) "Person" means any individual, firm, partnership, corporation, limited liability company, association, other organization, or any employee or agent thereof.

(d) "Preparation" means giving advice on an immigration matter and includes drafting an application, brief, document, petition or other paper, or completing a form provided by a federal or state agency in an immigration matter.

SEC. 199. Section 11207 of the Penal Code is amended to read:

11207. "Person," as used in this article, means individuals, corporations, associations, partnerships, limited liability companies, trustees, lessees, agents and assignees.

SEC. 200. Section 11234 of the Penal Code is amended to read:

11234. "Person" as used in this article means individuals, corporations, associations, partnerships, limited liability companies, trustees, lessees, agents and assignees.

SEC. 201. Section 12277 of the Penal Code is amended to read:

12277. As used in this chapter, "person" means an individual, partnership, corporation, limited liability company, association, or any other group or entity, regardless of how it was created.

SEC. 202. Section 56 of the Probate Code is amended to read:

56. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, or other entity.

SEC. 203. Section 2004 of the Public Resources Code is amended to read:

2004. "Person" includes any individual, firm, association, corporation, organization, limited liability company, or partnership, or any city, county, district, or the state or any department or agency thereof.

SEC. 204. Section 3316.1 of the Public Resources Code is amended to read:

3316.1. As used in this article, "person" means any natural person, corporation, association, partnership, limited liability company, joint venture, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind and includes the state and any city, county, city and county, district or any department,

agency or instrumentality of the state or of any governmental subdivision whatsoever.

SEC. 205. Section 3460 of the Public Resources Code is amended to read:

3460. (a) As used in this article:

(1) "Used oil" has the same meaning as defined in subdivision (a) of Section 25250.1 of the Health and Safety Code.

(2) "Recycle" means to prepare used oil for reuse as a petroleum product by refining, reclaiming, reprocessing, or other means, in order to attain the standards specified by subdivision (c) of Section 25250.1 of the Health and Safety Code. "Recycle" does not include the application of used oil to roads for the purpose of dust control or to the ground for the purpose of weed abatement. "Recycle" does not include incineration or burning of used oil as a fuel.

(3) "Board" means the California Waste Management Board.

(4) "Person" means any individual, private or public corporation, partnership, limited liability company, cooperative, association, estate, municipality, political or jurisdictional subdivision, or government agency or instrumentality.

(b) The amendments made to this section at the 1987 portion of the 1987–88 Regular Session of the Legislature do not affect the validity of any existing regulations of the State Department of Health Services relating to the management of used oil blended or diluted with virgin oil or any partially refined oil product as a hazardous waste, and do not affect the authority of the State Department of Health Services to prohibit blending or diluting used oil with an uncontaminated product to achieve the standards for recycled oil, as specified in subdivision (c) of Section 25250.1 of the Health and Safety Code.

SEC. 206. Section 3635.1 of the Public Resources Code is amended to read:

3635.1. "Person" means any natural person, corporation, association, partnership, limited liability company, joint venture, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind and includes the state and any city, county, city and county, district or any department, agency, or instrumentality of the state or of any governmental subdivision whatsoever.

SEC. 207. Section 4101 of the Public Resources Code is amended to read:

4101. "Person" includes any agency of the state, county, city, district, or other local public agency, and any individual, firm, association, partnership, business trust, corporation, limited liability company, or company.

SEC. 208. Section 4464 of the Public Resources Code is amended to read:

4464. Unless the context clearly requires otherwise, the following definitions govern the construction of this chapter:

(a) "Wildland" means any land that is classified as a state

responsibility area pursuant to Article 3 (commencing with Section 4125) of Chapter 1 of this part and includes any such land having a plant cover consisting principally of grasses, forbs, or shrubs that are valuable for forage. "Wildland" also means any lands that are contiguous to lands classified as a state responsibility area if wildland fuel accumulation is such that a wildland fire occurring on these lands would pose a threat to the adjacent state responsibility area.

(b) "Wildland fuel" means any timber, brush, grass, or other flammable vegetation, living or dead, standing or down.

(c) "Wildland fire" means any uncontrolled fire burning on wildland.

(d) "Prescribed burning" or "prescribed burning operation" means the planned application and confinement of fire to wildland fuels on wildland selected in advance of such application to achieve any specific objective and any necessary followup activities, such as revegetation and erosion control measures.

(e) "Prescribed burn crew" means personnel and firefighting equipment of the department that are prepared to contain fire set in a prescribed burning operation and to suppress any fire that escapes during a prescribed burning operation.

(f) "Person" means any natural person, firm, association, partnership, business trust, corporation, limited liability company, company, or combination thereof, or any public agency other than an agency of the federal government.

SEC. 209. Section 4525 of the Public Resources Code is amended to read:

4525. "Person" includes any private individual, organization, partnership, corporation, limited liability company, city, county, district, or the state or any department or agency thereof.

SEC. 210. Section 4793 of the Public Resources Code is amended to read:

4793. As used in this chapter:

(a) "A county with high unemployment" means a county with an annual unemployment rate, as reported by the Employment Development Department, higher than the mean annual unemployment rate of "rate adjustment counties" as defined pursuant to the Timber Yield Tax Law (commencing with Section 38101 of the Revenue and Taxation Code).

(b) "Eligible landowner" means any person who meets the conditions set forth in Sections 4797 and 4799. Where ownership of forest land and timber is not held by the same person, "landowner" means either the person or persons owning the land or the person or persons owning the timber.

(c) "Fish and wildlife habitat improvements" means measures designed to protect, maintain, or enhance fish and wildlife habitat including, but not limited to, stream clearance, reestablishment of desirable vegetation along stream channels and elsewhere, measures to encourage habitat diversity, and restoration of anadromous fisheries.

(d) "Followup work" means forest resource improvement work necessary to promote the survival of seed or seedlings planted, or protection or enhancement of other work undertaken, as part of a prior forest resource improvement project pursuant to this chapter.

(e) "Forest land" means land at least 10 percent occupied by forest trees of any size, or formerly having had such tree cover and not currently zoned for uses incompatible with forest resource management.

(f) "Forest land conservation measures" means measures designed to protect, maintain, or enhance the forest resource system, including soil and watershed values and diversity of forest species.

(g) "Forest land with demonstrated potential for improved forest resource management" means forest land which could produce significantly greater forest resource benefits if forest resource improvement work was carried out and which is not managed for uses incompatible with forest resource management.

(h) "Forest resources" means those uses and values associated with forest land, including fish, forage, recreation and aesthetics, soils, timber, watershed, wilderness, and wildlife.

(i) "Forest resource system" means the interdependent system of air, water, solar energy, and forest resources as defined by subdivision (h).

(j) "Forest resource improvement work" means the forest resource improvement measures enumerated in Section 4794 for which assistance is authorized pursuant to the provisions of this chapter.

(k) "Forest resource improvement project" means a project undertaken pursuant to Section 4795 or a loan made pursuant to Section 4796.

(*l*) "Management plan" means a long-term forest and land management plan submitted to the director pursuant to Section 4799.

(m) "Person" includes:

(1) Any private individual, organization, partnership, limited liability company, or corporation.

(2) Except for the purposes of Section 4795 and subdivision (a) of Section 4796, any city, county, or district.

(n) "Prevailing rate" means the average annual rate earned by the state on moneys deposited in the Pooled Money Investment Account in the General Fund.

(o) "Reforestation" means planting of tree seedlings, cuttings, or seed.

(p) "Restocked" means stocking to the degree required by the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

(q) "Small business entity" means a business enterprise, including a landowner, with five hundred thousand dollars ($500,000) or less annual gross revenue.

(r) "Smaller nonindustrial landowners" means owners of 5,000

acres or less of forest land.

(s) "Uses incompatible with forest resource management" means uses not listed in subdivision (h) of Section 51100 of the Government Code nor listed pursuant to Section 51111 of the Government Code by the city or county in which the parcel subject to a forest resource improvement project lies.

(t) "Young growth stand improvement" means precommercial thinning or weeding of young growth stands to provide more growing space and release of young trees from competing vegetation.

SEC. 211. Section 6331 of the Public Resources Code is amended to read:

6331. As used in this article:

(a) "Ungranted tidelands" means the tide and submerged lands owned by the State of California which have not been granted in trust to any local agency or to the United States or to private parties.

(b) "Local agency" means any county, city, public district, or other public agency.

(c) "Person" means any private person, partnership, association, limited liability company, or corporation.

SEC. 212. Section 8750 of the Public Resources Code is amended to read:

8750. Unless the context requires otherwise, the following definitions govern the construction of this division:

(a) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to Section 8670.4 of the Government Code.

(b) "Barges" means any vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self-propulsion.

(c) (1) "Best achievable protection" means the highest level of protection which can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable. The administrator's determination of best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering (A) the protection provided by the measures, (B) the technological achievability of the measures, and (C) the cost of the measures.

(2) It is not the intent of the Legislature that the administrator use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures to require. Instead, it is the intent of the Legislature that the administrator give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(d) "Best achievable technology" means that technology which

provides the greatest degree of protection taking into consideration (1) processes which are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development, and (2) processes which are currently in use anywhere in the world. In determining what is best achievable technology, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(e) "Commission" means the State Lands Commission.

(f) "Local government" means any chartered or general law city, chartered or general law county or any city and county.

(g) "Marine facility" means any facility of any kind, other than a vessel, which is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility (1) is subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code or (2) is placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank. For the purposes of this division, a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform is a "marine facility." For the purposes of this division, a small craft refueling dock is not a "marine facility."

(h) "Marine terminal" means any marine facility used for transferring oil to or from tankers or barges. For the purposes of this section, a marine terminal includes all piping not integrally connected to a tank facility as defined in subdivision (k) of Section 25270.2 of the Health and Safety Code.

(i) "Marine waters" means those waters subject to tidal influence, except for waters in the Sacramento-San Joaquin Rivers and Delta upstream from a line running north and south through the point where Contra Costa, Sacramento, and Solano Counties meet.

(j) "Nonpersistent oil" means a petroleum-based oil, such as gasoline, diesel, or jet fuel, which evaporated relatively quickly. Specifically, it is an oil with hydrocarbon fractions, at least 50 percent of which, by volume, distills at a temperature of 645 degrees Fahrenheit, and at least 95 percent of which, by volume, distills at a temperature of 700 degrees Fahrenheit.

(k) "Oil" means any kind of petroleum, liquid hydrocarbons, or petroleum products or any fraction or residues therefrom, including, but not limited to, crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(*l*) "Onshore facility" means any facility of any kind which is located entirely on lands not covered by marine waters.

(m) "Operator" when used in connection with vessels, marine terminals, pipelines, or facilities, means any person or entity which owns, has an ownership interest in, charters, leases, rents, operates,

participates in the operation of or uses that vessel, terminal, pipeline, or facility. "Operator" does not include any entity which owns the land underlying the facility or the facility itself, where the entity is not involved in the operations of the facility.

(n) "Person" means an individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, limited liability company, and association. "Person" also includes any city, county, city and county, district, and the state or any department or agency thereof, and the federal government, or any department or agency thereof, to the extent permitted by law.

(o) "Pipeline" means any pipeline used at any time to transport oil.

(p) "Responsible party" or "party responsible" means either of the following:

(1) The owner or transporter of oil or a person or entity accepting responsibility for the oil.

(2) The owner, operator, or lessee of, or person who charters by demise, any vessel or marine facility or a person or entity accepting responsibility for the vessel or marine facility.

(q) "Small craft refueling dock" means a fixed facility having tank storage capacity not exceeding 20,000 gallons in any single storage tank and that dispenses nonpersistent oil to small craft.

(r) "Spill" or "discharge" means any release of at least one barrel (42 gallons) of oil not authorized by any federal, state, or local government entity.

(s) "State oil spill contingency plan" means the state oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the Government Code.

(t) "Tanker" means any self-propelled, waterborne vessel, constructed or adapted for the carriage of oil in bulk or in commercial quantities as cargo.

(u) "Vessel" means a tanker or barge as defined in this section.

SEC. 213. Section 21066 of the Public Resources Code is amended to read:

21066. "Person" includes any person, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, county, city and county, city, town, the state, and any of the agencies and political subdivisions of such entities.

SEC. 214. Section 25116 of the Public Resources Code is amended to read:

25116. "Person" means any person, firm, association, organization, partnership, business trust, corporation, limited liability company, or company. "Person" also includes any city, county, public district or agency, the state or any department or agency thereof, and the United States to the extent authorized by federal law.

SEC. 215. Section 25953 of the Public Resources Code is amended to read:

25953. As used in this chapter, the following terms have the following meanings:

(a) "Person" means any individual, partnership, corporation, limited liability company, association, manufacturer, distributor, retailer, contractor or builder as defined in Section 7026 of the Business and Professions Code, or other groups, however organized, who sell or cause to be distributed or installed, any new gas appliance as defined in Section 25950.

(b) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, produces, or gathers consumer goods.

(c) "Distributor" means any individual, partnership, corporation, association or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments or contracts for sale of consumer goods.

(d) "Retail seller," "retail outlets," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling new goods to retail buyers.

(e) "Contractor" for the purpose of this chapter is synonymous with the term "builder" and, within the meaning of this chapter, a contractor is any person who undertakes to or offers to undertake to or purports to have the capacity to undertake to or submits a bid to, or does himself or by or through others, construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith. The term "contractor" includes subcontractor and specialty contractor.

SEC. 216. Section 29117 of the Public Resources Code is amended to read:

29117. (a) "Person" means any individual, organization, partnership, limited liability company, or other business association or corporation, including any utility; and the federal government, the state, any local government, or any district, or any agency thereof.

(b) "Aggrieved person" means any person who, in person or through a representative, appeared at a public hearing of the local government in connection with the decision made or action appealed; or who, by other appropriate means prior to a hearing, informed the local government of the nature of his or her concerns; or who for good cause was unable to do either of the foregoing. "Aggrieved person" includes the applicant for a permit; and, with respect to the approval of the local protection program, or any component thereof, any affected local government.

SEC. 217. Section 30111 of the Public Resources Code is amended

to read:

30111. "Person" means any individual, organization, partnership, limited liability company, or other business association or corporation, including any utility, and any federal, state, local government, or special district or an agency thereof.

SEC. 218. Section 4662 of the Public Utilities Code is amended to read:

4662. As used in this chapter, "person" means any individual, firm, partnership, private, municipal or public corporation, limited liability company, company, association, joint stock association, trustee, receiver, assignee, or other similar representative.

SEC. 219. Section 5502 of the Public Utilities Code is amended to read:

5502. As used in this article, "person" means any individual, firm, partnership, private, municipal or public corporation, limited liability company, company, association, joint stock association, trustee, receiver, assignee, or other similar representative.

SEC. 220. Section 21009 of the Public Utilities Code is amended to read:

21009. "Person" means any individual, firm, partnership, corporation, limited liability company, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative.

SEC. 221. Section 102020 of the Public Utilities Code is amended to read:

102020. "Person" includes any individual, firm, partnership, association, corporation, limited liability company, trust, or business trust, or the receiver, trustee, or conservator for any thereof, but does not include a public agency, as defined in Section 102017.

SEC. 222. Section 103019 of the Public Utilities Code is amended to read:

103019. "Person" includes any individual, firm, partnership, association, corporation, limited liability company, trust, business trust, or the receiver or trustee or conservator for any thereof, but does not include a public agency, as defined in Section 103016.

SEC. 223. Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property which is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value which is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year

value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with the following requirements:

(A) It is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) It requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) It requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of claims for transfers of base year value.

(D) The ordinance provides that its provisions shall remain operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), any person claiming the property tax relief provided by this section shall be eligible for that relief only if the following conditions are met:

(1) The claimant is an owner and a resident of the original property either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowner's exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowner's

exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and which, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) (A) For purposes of paragraph (1) of subdivision (a), the replacement dwelling, including that portion of land on which it is situated which is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(B) For purposes of paragraph (2) of subdivision (a), the replacement dwelling, including that portion of the land on which it is situated which is specified in paragraph (5), is located entirely within the county.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format which is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A mobilehome or a mobilehome and any land owned by the claimant on which the mobilehome is situated. If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the mobilehome or the base year value of the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor of that portion of land which does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g). If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome or the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor to that portion of land which does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of original property, as a joint tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them shall be deemed eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California

Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section shall not apply unless the transfer of the original property is a change in ownership which either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section or Section 69 because the property qualifies under this section or Section 69 as a replacement dwelling.

(f) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form which the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who is a record owner of the replacement dwelling.

(2) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(A) A certification, signed by a licensed physician or surgeon of appropriate specialty which identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(B) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(3) The address and, if known, the assessor's parcel number of the original property, and, if the original property is located within another county, the name of the county or counties and, if applicable,

city or cities in which the original property is located.

(4) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

(6) If the original property and the replacement dwelling are located in different counties, the base-year value of the original property determined by the assessor of the county in which the original property is located.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed.

(g) For purposes of this section:

(1) "Person over the age of 55 years" means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of original property.

(2) "Base year value of the original property" means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, "base year value of the original property" also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the "base year value of the original property" shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) "Replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, which is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size which is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling.

(4) "Original property" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, which is owned and occupied by a claimant as his

or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size which is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property.

(5) "Equal or lesser value" means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if either of the following conditions are met:

(i) The replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

(ii) The replacement dwelling is purchased or newly constructed on or after November 5, 1986, and on or before January 1, 1988, and within two years of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the "replacement dwelling is purchased or newly constructed" is the date of purchase or the date of completion of construction, whichever is later.

(6) "Full cash value of the replacement dwelling" means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) "Full cash value of the original property" means its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) "Sale" means any change in ownership of the original property for consideration.

(9) "Claimant" means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse shall also be deemed a claimant for purposes of determining whether the condition of paragraph (7) of subdivision (b) has been met.

(10) "Property which is eligible for the homeowner's exemption" includes property which is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) "Consultation" means a noticed hearing conducted by a county board of supervisors concerning the adoption of an ordinance described in paragraph (2) of subdivision (a) and with respect to which all local affected agencies within the boundaries of the county are provided with reasonable notice of the time and place of the hearing and a reasonable opportunity to appear and participate at the hearing.

(12) "Local affected agency" means any city, special district, school district, or community college district which receives an annual property tax revenue allocation.

(13) "Person" means any individual, but does not include any firm, partnership, association, corporation, limited liability company, company, or other legal entity or organization of any kind.

(14) "Severely and permanently disabled person" means any person described in subdivision (b) of Section 74.3.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes which were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount which would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), if a written notice of rescission is delivered to the office of the assessor in which the original claim was filed and all of the following have occurred:

(1) The notice is signed by the original filing claimant or claimants.

(2) The notice is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), shall apply to any replacement dwelling which is purchased or newly constructed on or after November 5, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, this section, except as provided in paragraph (3), shall apply to any replacement dwelling which is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

(3) With respect to the transfer of base year value by a severely

and permanently disabled person, this section shall apply only to replacement dwellings which are purchased or newly constructed on or after June 6, 1990.

(4) The amendments made to subdivision (e) by the act adding this paragraph shall apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and shall apply commencing with the 1991–92 fiscal year.

(k) The amendments to this section made by the act adding this subdivision, and the amendments to this section during the 1989 portion of the 1989–90 Regular Session of the Legislature, shall remain operative only until January 1, 1999, and on that date are repealed.

SEC. 223.5. Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property which is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value which is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(b) In addition to meeting the requirements of subdivision (a), any person claiming the property tax relief provided by this section shall be eligible for that relief only if the following conditions are met:

(1) The claimant is an owner and a resident of the original property either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowner's exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowner's exemption or would be eligible for the exemption except that the

property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and which, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) The replacement dwelling, including that portion of land on which it is situated which is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format which is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant, includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A mobilehome or a mobilehome and any land owned by the claimant on which the mobilehome is situated. If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the mobilehome or the base year value of the mobilehome and the land

on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor of that portion of land which does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g). If the mobilehome or the mobilehome and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the mobilehome or the mobilehome and the land on which it is situated, as appropriate. No transfer of base year value shall be made by the assessor to that portion of land which does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of original property, as a joint tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section shall not apply unless the transfer of the original property is a change in ownership which either (1) subjects that property to reappraisal at its current fair market value in accordance

with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section or Section 69 because the property qualifies under this section or Section 69 as a replacement dwelling.

(f) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form which the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who was a record owner of the original property at the time of its sale or is a record owner of the replacement dwelling.

(2) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(A) A certification, signed by a licensed physician or surgeon of appropriate specialty which identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(B) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(3) The address and, if known, the assessor's parcel number of the original property.

(4) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed.

(g) For purposes of this section:

(1) "Person over the age of 55 years" means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of original property.

(2) "Base year value of the original property" means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, "base year value of the original property" also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the "base year value of the original property" shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) "Replacement dwelling" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, which is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size which is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling.

(4) "Original property" means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, which is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size which is used as a site for a residence, and "land owned by the claimant" includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property.

(5) "Equal or lesser value" means that the amount of the full cash value of a replacement dwelling does not exceed one of the

following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the "replacement dwelling is purchased or newly constructed" is the date of purchase or the date of completion of construction, whichever is later.

(6) "Full cash value of the replacement dwelling" means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) "Full cash value of the original property" means its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) "Sale" means any change in ownership of the original property for consideration.

(9) "Claimant" means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) "Property which is eligible for the homeowner's exemption" includes property which is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) "Person" means any individual, but does not include any firm, partnership, association, corporation, limited liability company, company, or other legal entity or organization of any kind.

(12) "Severely and permanently disabled" means any person described in subdivision (b) of Section 74.3.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity

with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes which were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount which would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), if a written notice of rescission is delivered to the office of the assessor in which the original claim was filed and all of the following have occurred:

(1) The notice is signed by the original filing claimant or claimants.

(2) The notice is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be

delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) This section, except as provided in paragraph (2) or (3), shall apply to any replacement dwelling which is purchased or newly constructed on or after November 6, 1986.

(2) With respect to the transfer of base year value by a severely and permanently disabled person, this section shall apply only to replacement dwellings which are purchased or newly constructed on or after June 6, 1990.

(3) The amendments made to subdivision (e) by the act adding this paragraph shall apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and shall apply commencing with the 1991–92 fiscal year.

(k) The amendments to this section made by the act adding this subdivision shall become operative on January 1, 1999.

SEC. 223.6. Section 13203 of the Revenue and Taxation Code is amended to read:

13203. For purposes of this part:

(a) "Person" means an individual, bank, corporation, partnership, limited liability company, society, association, organization, joint stock company, estate, or trust, or a receiver, trustee, assignee, referee or any other person acting in a fiduciary capacity, whether appointed by a court or otherwise, or any combination thereof.

(b) "Taxpayer" means any person subject to the tax imposed by this part.

SEC. 224. Section 19 of the Streets and Highways Code is amended to read:

19. "Person" means any person, firm, partnership, association, corporation, organization, limited liability company, or business trust.

SEC. 225. Section 470 of the Vehicle Code is amended to read:

470. "Person" includes a natural person, firm, copartnership, association, limited liability company, or corporation.

SEC. 226. Section 19 of the Water Code is amended to read:

19. "Person" means any person, firm, association, organization, partnership, business trust, corporation, limited liability company, or company.

SEC. 227. Section 72140.1 of the Water Code is amended to read:

72140.1. As used in this chapter:

(a) "Annual" or "year" means a calendar year unless the context indicates a contrary meaning.

(b) "Assessing district" means any Chino Basin district which levies a production assessment under this chapter.

(c) "Board" means the board of directors of the primary district.

(d) "Chino Basin" means the groundwater basin situated within the Counties of Los Angeles, Riverside, and San Bernardino and which is described in the complaint for general adjudication of water rights in the matter of Chino Basin Municipal Water District v. City of Chino, et al., San Bernardino Superior Court No. 164327, filed January 2, 1975.

(e) "Chino Basin districts" means the primary district, the Western Municipal Water District of Riverside County, and the Pomona Valley Municipal Water District, the boundaries of each of which incorporate land overlying, in part, the Chino Basin.

(f) "Fiscal year" means the period July 1 through June 30, following.

(g) "Groundwater" means water beneath the surface of the ground and within the zone of saturation.

(h) "Minimal pumper" means any person whose total production from the Chino Basin does not exceed 10 acre-feet per year.

(i) "Person" means any public agency or public corporation, or any private corporation, firm, partnership, limited liability company, individual, or group of individuals, excluding the State of California and its agencies.

(j) "Primary district" means the Chino Basin Municipal Water District, which overlies a majority of the Chino Basin.

(k) "Production" or "produce" means the extraction of groundwater by pumping or any other method, except for gravity flow tunnels which intercept the subsurface flow of defined streams.

(*l*) "Producer" means any person who produces groundwater within the Chino Basin, excluding minimal pumpers.

(m) "Secretary" means the secretary of the primary district.

(n) "Supplemental water" means water from the State Water Resources Development System.

(o) "Water producing facility" means any device or method, mechanical or otherwise, for the production of groundwater within the Chino Basin.

(p) "Annual report" means the report required of each producer pursuant to Section 72143.

SEC. 228. Section 75501 of the Water Code is amended to read:

75501. "Person" or "operator" means public agencies, federal, state, and local, private corporations, firms, partnerships, limited liability companies, individuals, or groups of individuals, whether legally organized or not. "Owner" or "operator" also means the person to whom a water-producing facility is assessed by the county assessor of an affected county, or, if not separately assessed, the person who owns the land upon which a water-producing facility is located.

SEC. 229. Section 24 of the Orange County Water District Act (Chapter 924 of the Statutes of 1933) is amended to read:

24. On or before the fifteenth day of January 1954, all water-producing facilities located within the boundaries of the Orange County Water District shall be registered with said district by the operator thereof. Any new water-producing facility constructed or re-established after such date shall be registered with said district within 30 days after the completion or re-establishment thereof.

Failure to register any water-producing facility with said district is a misdemeanor punishable by a fine of not to exceed five hundred dollars ($500) or imprisonment in the county jail for not to exceed six months or by both such fine and imprisonment.

In addition to other information which said district may determine is necessary and may require in the registration form provided, there shall also be given information as to the owner or owners of the land upon which each water-producing facility is located, a general description and location of each water-producing facility, the name and address of the person charged with the operation of each water-producing facility and the name or names and addresses of all persons owning or claiming to own an interest in the water-producing facility.

"Person" or "operator" as used in this act means public agencies, federal, state, and local, private corporations, firms, partnerships, limited liability companies, individuals or group of individuals whether legally organized or not; "owner" or "operator" also means the person to whom a water-producing facility is assessed by the county assessor or if not separately assessed the person who owns the land upon which a water-producing facility is located.

"Groundwater" as used in this act means all water beneath the earth's surface, but does not include water which is being produced with oil in the production of oil and gas or in a bona fide mining operation.

"Production" or "producing" as used in this act means the act of extracting groundwater, by pumping or otherwise.

"Water-producing facility" as used in this act means any device or method, mechanical or otherwise, for the production of water from the groundwater supplies within said district.

"Accumulated overdraft" as used in this act means the amount of water necessary to be replaced in the intake area of the groundwater basin within said district to prevent the landward movement of ocean water into the fresh groundwater body, as determined by the board of directors from time to time.

"Annual overdraft" as used in this act means the amount, determined by the board of directors, by which the production of water from the groundwater supplies within said district during the water year exceeds the natural replenishment of such groundwater supplies in such water year.

"Water year" as used in this act means July 1st of one calendar year to June 30th of the following calendar year.

SEC. 230. Section 26.1 of the Santa Clara Valley Water District

Act (Chapter 1405 of the Statutes of 1951) is amended to read:

26.1. As used in connection with the groundwater charge, the following words shall mean:

"Person," "owner," or "operator" means public agencies, federal, state, and local, private corporations, firms, partnerships, limited liability companies, individuals or groups of individuals, whether legally organized or not; "owner" or "operator" also means the person to whom a water-producing facility is assessed by the county assessor, or, if not separately assessed, the person who owns the land upon which a water-producing facility is located.

"Groundwater" means nonsaline water beneath the natural surface of the ground, whether or not flowing through known and definite channels; "nonsaline water" means water which has less than 1,000 parts of chlorides to 1,000,000 parts of water, both quantities measured by weight.

"Production" or "producing" means the extraction or extracting of groundwater, by pumping or any other method, from shafts, tunnels, wells (including, but not limited to, abandoned oil wells), excavations or other sources of groundwater, for domestic, municipal, irrigation, industrial, or other beneficial use, except that the terms do not mean or include the extraction of groundwater produced in the construction or reconstruction of a well, or water incidentally produced with oil or gas in the production thereof, or water incidentally produced in a bona fide mining or excavating operation or water incidentally produced in the bona fide construction of a tunnel, unless the groundwater so extracted shall be used or sold by the producer for domestic, municipal, irrigation, industrial, or other beneficial purpose.

"Water-producing facility" means any device or method, mechanical or otherwise, for the production of water from the groundwater supplies within the district or a zone thereof.

"Water production statement" means the certified statement filed by the owner or operator of a water-producing facility with the district of the production of groundwater of the facility in a specified period.

"Water year" means July 1st of one calendar year to June 30th of the following calendar year.

"Agricultural water" means water primarily used in the commercial production of agricultural crops or livestock.

SEC. 231. Section 4.1 of the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951) is amended to read:

4.1. As used in connection with the ground water charge, the following words shall mean:

"Person" or "operator" means public agencies, federal, state, and local, private corporations, firms, partnerships, limited liability companies, individuals or groups of individuals, whether legally organized or not; "owner" or "operator" also means the person to whom a water-producing facility is assessed by the county assessor,

or, if not separately assessed, the person who owns the land upon which a water-producing facility is located.

"Groundwater" means all water beneath the earth's surface, but does not include water which is produced with oil in the production of oil and gas, or in a bona fide mining operation, or during construction operations.

"Production" or "producing" means the act of extracting ground water by pumping or otherwise.

"Water-producing facility" means any device or method, mechanical or otherwise, for the production of water from the groundwater supplies within the district or a zone thereof.

"Water year" means April 1 of one calendar year to March 31 of the following calendar year.

"Agricultural water" means water first used on lands in the production of plant crops or livestock for market.

SEC. 232. Section 36 of the Sacramento County Water Agency Act (Chapter 10 of the Statutes of 1952, First Extraordinary Session) is amended to read:

36. As used in connection with the groundwater charge, the following words have the following respective meanings:

(a) "Agricultural water" means water used in the growing and harvesting of plant crops, the raising of livestock, fish, or poultry, the operation of dairies, or other farm agricultural uses.

(b) "Board" means the board of directors of the agency unless otherwise expressly provided; and "board" and "agency" are used interchangeably.

(c) "Groundwater" means all water beneath the earth's surface, whether or not flowing through known and definite channels, but does not include any water which is subject to appropriation under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

(d) "Owner" or "operator" means the person to whom a water-producing facility charge is sent by the county assessor or, if not separately assessed, the person who owns the land upon which a water-producing facility is located.

(e) "Person," "owner," or "operator" means federal, state, and local agencies, private corporations, firms, partnerships, limited liability companies, individuals, or groups of individuals, whether legally organized or not.

(f) "Production" or "producing" means the extraction of groundwater, by pumping or any other method, from shafts, tunnels, wells, excavations, or other means of access to the groundwater, for domestic, municipal, irrigation, industrial, or other use, except that the terms do not mean or include the extraction of groundwater produced in the construction or reconstruction of a well, water incidentally produced with oil or gas in the production of oil or gas, water incidentally produced in a bona fide mining operation, water incidentally produced in the bona fide construction of a tunnel, or dewatering for construction.

(g) "Small water-producing facility" means a facility which has a discharge opening not greater than a size to be specified by the board and which does not provide water for an area in excess of that to be specified by the board.

(h) "Water-producing facility" means any device or method, mechanical or otherwise, for the production of water from the groundwater supplies within a zone.

(i) "Water purveyor" means irrigation districts, county water districts, water conservation districts, municipalities, any other districts, or political subdivisions of the state authorized by law to appropriate water and to deliver water to users, mutual water companies, and public water utilities as defined in Section 216 of the Public Utilities Code.

(j) "Water year" means October 1 of one calendar year to September 30 of the following calendar year.

SEC. 233. Section 7.2 of the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is amended to read:

7.2. As used in connection with the groundwater charge, the following words shall mean:

"Person" or "operator" means public agencies, federal, state, and local, private corporations, firms, partnerships, limited liability companies, individuals or groups of individuals, whether legally organized or not; "owner" or "operator" also means the person to whom a water-producing facility is assessed by the county assessor, or, if not separately assessed, the person who owns the land upon which a water-producing facility is located.

"Groundwater" means all water beneath the earth's surface, but does not include water which is produced with oil in the production of oil and gas, or in a bona fide mining operation, or during construction operations, or from gravity or artesian springs.

"Production" or "producing" means the act of extracting groundwater by pumping or otherwise.

"Water-producing facility" means any device or method, mechanical or otherwise, for the production of water from the groundwater supplies within the district or a zone thereof.

"Accumulated overdraft" means the amount of water necessary to be replaced in the intake areas of the groundwater basins within the district or any zone or zones thereof to prevent the landward movement of salt water into the fresh groundwater body, or to prevent subsidence of the land within any such zone or zones, as determined by the board from time to time.

"Annual overdraft" means the amount, determined by the board, by which the production of water from the groundwater supplies within the district or any zone or zones thereof during the water year exceeds the natural replenishment of such groundwater supplies in such water year.

"Water year" means July 1st of one calendar year to June 30th of the following calendar year.

"Agricultural water" means water first used on lands in the production of plant crops or livestock for market.

SEC. 234. Section 14.21 of the Kern County Water Agency Act (Chapter 1003 of the Statutes of 1961) is amended to read:

14.21. As used in connection with the groundwater charge, the following words shall have the following respective meanings:

"Person," "owner" or "operator" means federal, state, and local public agencies, private corporations, firms, partnerships, limited liability companies, individuals or groups of individuals, whether legally organized or not; "owner" or "operator" also means the person to whom a water-producing facility is assessed by the county assessor, or, if not separately assessed, the person who owns the land upon which a water-producing facility is located.

"Groundwater" means all water beneath the earth's surface, whether or not flowing through known and definite channels.

"Production" or "producing" means the extraction or extracting of groundwater, by pumping or any other method, from shafts, tunnels, wells (including, but not limited to, abandoned oil wells), excavations or other sources of such groundwater, for domestic, municipal, irrigation, industrial, or other use, except that such terms shall not mean or include the extraction of groundwater produced in the construction or reconstruction of a well, or water incidentally produced with oil or gas in the production thereof, or water incidentally produced in a bona fide mining or excavating operation or water incidentally produced in the bona fide construction of a tunnel.

"Water-producing facility" means any device or method, mechanical or otherwise, for the production of water from the groundwater supplies within the improvement district.

"Water year" means July 1 of one calendar year to June 30 of the following calendar year.

"Agricultural water" means water first used on lands in the production of plant crops or livestock for market.

SEC. 235. Section 342 of the Monterey Peninsula Water Management District Law (Chapter 527 of the Statutes of 1977) is amended to read:

342. Unless the context otherwise requires, the definitions of this section shall govern the construction of this article:

(a) "Person," or "owner" or "operator" means public entities as defined in Section 8, private corporations, firms, partnerships, limited liability companies, individuals or groups of individuals, whether organized or not; "owner" or "operator" also means the person to whom a water-producing facility is assessed by the county assessor, or, if not separately assessed, the person who owns the land upon which a water-producing facility is located.

(b) "Groundwater" means nonsaline water beneath the natural surface of the ground, whether or not flowing through known and definite channels; "nonsaline water" means water which has less than 1,000 parts of chlorides to 1,000,000 parts of water, both

quantities measured by weight.

(c) "Production" or "producing" means the extraction or extracting of groundwater, by pumping or any other method, from shafts, tunnels, wells (including, but not limited to, abandoned oil wells), excavations, or other sources of such groundwater, for domestic, municipal, irrigation, industrial, or other beneficial use, except that such terms shall not mean or include the extraction of groundwater produced in the construction or reconstruction of a well for, or water incidentally produced with, oil or gas in the production thereof, or water incidentally produced in a bona fide mining or excavating operation, or water incidentally produced in the bona fide construction of a tunnel, unless the groundwater so extracted shall be used or sold by the producer for domestic, municipal, irrigation, industrial, or other beneficial purpose.

(d) "Water-producing facility" means any device or method, mechanical or otherwise, for the production of water from the groundwater supplies within the district or a zone thereof.

(e) "Water year" means July 1 of one calendar year to June 30 of the following calendar year.

(f) "Agricultural water" means water first used on lands in the production of plant crops or livestock for market.

SEC. 236. Section 315 of the Sierra Valley Groundwater Basin Act (Chapter 449 of the Statutes of 1980) is amended to read:

315. "Person" includes any state or local governmental agency, private corporation, firm, partnership, limited liability company, individual, group of individuals, or, to the extent authorized by law, any federal agency.

SEC. 237. Section 319 of the Fox Canyon Groundwater Management Agency Act (Chapter 1023 of the Statutes of 1982) is amended to read:

319. "Person" includes any state or local governmental agency, private corporation, firm, partnership, limited liability company, individual, group of individuals, or, to the extent authorized by law, any federal agency.

SEC. 238. Section 313 of the Pajaro Valley Water Management Agency Act (Chapter 257 of the Statutes of 1984) is amended to read:

313. "Person" includes any state or local governmental agency, private corporation, firm, partnership, limited liability company, individual, group of individuals, or, to the extent authorized by law, any federal agency.

SEC. 239. Section 315 of the Mono County Tri-Valley Groundwater Management District Act (Chapter 844 of the Statutes of 1989) is amended to read:

315. "Person" includes any state or local governmental agency, private corporation, firm, partnership, limited liability company, individual, group of individuals, or, to the extent authorized by law, any federal agency.

SEC. 240. Section 315 of the Honey Lake Valley Groundwater Basin Act (Chapter 1392 of the Statutes of 1989) is amended to read:

315. "Person" includes any state or local governmental agency, private corporation, firm, partnership, limited liability company, individual, group of individuals, or, to the extent authorized by law, any federal agency.

SEC. 241. Section 320 of the Ojai Basin Groundwater Management Agency Act (Chapter 750 of the Statutes of 1991) is amended to read:

320. "Person" includes any state or local governmental agency, private corporation, firm, partnership, limited liability company, individual, group of individuals, or, to the extent authorized by law any federal agency.

SEC. 242. (a) Except for the provisions of this act that amend Sections 15611 to 15681, inclusive, of the Corporations Code, it is the purpose of this act to include the term "limited liability company" within the definition of the term "person" and to make related technical changes. Accordingly, the following shall apply to all sections of this act other than those that amend Sections 15611 to 15681, inclusive, of the Corporations Code:

(1) Those sections shall become operative only if Senate Bill 469 is also enacted.

(2) Any section of any act enacted by the Legislature during the 1994 calendar year that takes effect on or before January 1, 1995, and that amends, amends and renumbers, adds, repeals and adds, or repeals any of those sections shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

(b) The restrictions and qualifications of subdivision (a) shall not apply to the amendments to Sections 15611 to 15681, inclusive, of the Corporations Code made by this act.

CHAPTER 1011

An act to amend Sections 10, 12a, and 135 of the Code of Civil Procedure, to amend Sections 45203, 79020, and 88203 of, and to add Section 37220.5 to, the Education Code, to amend Sections 6700, 6701, and 19853 of, and to add Section 6717 to, the Government Code, relating to public holidays.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 10 of the Code of Civil Procedure is amended to read:

10. Holidays within the meaning of this code are every Sunday and such other days, other than the holidays specified in subdivisions (c) and (f) of Section 6700 of the Government Code, as are specified or provided for as holidays in Chapter 7 (commencing with Section

6700) of Division 7, Title 1 of the Government Code.

SEC. 2. Section 12a of the Code of Civil Procedure is amended to read:

12a. If the last day for the performance of any act provided or required by law to be performed within a specified period of time shall be a holiday, then that period is hereby extended to and including the next day which is not a holiday. The term "holiday" as used herein shall mean all day on Saturdays, all holidays specified in Section 6700 and 6701 of the Government Code, other than the holidays specified in subdivisions (c) and (f) of Section 6700 of the Government Code, and, to the extent provided in Section 12b, all days which by terms of Section 12b are required to be considered as holidays. However, for a period of time expiring prior to January 1, 1952, time shall be computed and extended in accordance with the provisions of this section as they existed on January 1, 1951.

This section applies also to Sections 659, 659a, 946, and 974 through 982, inclusive, and the periods of time severally therein prescribed or provided for, and to all other provisions of law, however stated or wherever expressed, providing or requiring an act to be performed on a particular day or within a specified period of time. The mention of these sections is not intended and shall not be construed to exclude the application of this section to any other provisions of law, whether the latter are expressed in this or any other code or statute, ordinance, rule, or regulation.

SEC. 3. Section 135 of the Code of Civil Procedure is amended to read:

135. Every full day designated as a holiday by Section 6700 of the Government Code, including that Thursday of November declared by the President to be Thanksgiving Day, is a judicial holiday, except September 9, known as "Admission Day," March 31, known as "Cesar Chavez Day," and any other day appointed by the President, but not by the Governor, for a public fast, thanksgiving, or holiday. If a judicial holiday falls on a Saturday or a Sunday, the Judicial Council may designate an alternative day for observance of the holiday. Every Saturday and the day after Thanksgiving Day is a judicial holiday. Officers and employees of the courts shall observe only the judicial holidays established pursuant to this section.

SEC. 4. Section 37220.5 is added to the Education Code, to read:

37220.5. (a) In addition to the holidays prescribed in Section 37220, public schools may be closed on March 31, known as "Cesar Chavez Day," or the appropriate Monday or Friday following or preceding that date, if the governing board, pursuant to a memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, agrees to close schools for that purpose.

(b) On March 31 or on the day determined by the governing board, public schools and educational institutions throughout the state may include exercises, funded through existing resources, commemorating and directing attention to the history of the farm

labor movement in the United States and particularly the role therein of Cesar Chavez. The State Board of Education may adopt a model curriculum guide to be available for use by public schools for exercises related to Cesar Chavez Day.

SEC. 5. Section 45203 of the Education Code is amended to read:

45203. All probationary or permanent employees a part of the classified service shall be entitled to the following paid holidays provided they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday: January 1, February 12 known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," July 4, the first Monday in September known as "Labor Day," November 11 known as "Veterans Day," that Thursday in November proclaimed by the President as "Thanksgiving Day," December 25, every day appointed by the President, or the Governor of this state, as provided for in subdivisions (b) and (c) of Section 37220 for a public fast, thanksgiving or holiday, or any day declared a holiday under Section 1318 or 37222 for classified or certificated employees. School recesses during the Christmas, Easter, and mid-February periods shall not be considered holidays for classified employees who are normally required to work during that period. However, this shall not be construed as affecting vacation rights specified in this section.

Regular employees of the district who are not normally assigned to duty during the school holidays of December 25 and January 1 shall be paid for those two holidays provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.

When a holiday listed in this section falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. When a holiday listed in this section falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. When a classified employee is required to work on any of these holidays, he or she shall be paid compensation, or given compensating time off, for such work, in addition to the regular pay received for the holiday, at the rate of time and one-half the employee's regular rate of pay.

The provisions of Article 3 (commencing with Section 37220) of Chapter 2 of Part 22 shall not be construed to in any way limit the provisions of this section, nor shall anything in this section be construed to prohibit the governing board from adopting separate work schedules for the certificated and the classified services, or from providing holiday pay for employees who have not been in paid status on the days specified herein. Notwithstanding the adoption of separate work schedules for the certificated and the classified services, on any schoolday during which pupils would otherwise have been in attendance but are not and for which certificated personnel receive regular pay, classified personnel shall also receive regular

pay whether or not they are required to report for duty that day.

In addition to the other paid holidays specified in this section, the classified service may be entitled to a paid holiday on March 31 known as "Cesar Chavez Day," provided they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday, if the governing board, pursuant to a memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, agrees to the paid holiday.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240).

SEC. 6. Section 79020 of the Education Code is amended to read:

79020. Except as otherwise provided the community colleges shall continue in session or close on specified holidays as follows:

(a) The community colleges shall close on January 1st, the third Monday in January, commencing in the 1989–90 fiscal year, known as "Dr. Martin Luther King, Jr. Day," February 12th known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," July 4th, the first Monday in September known as "Labor Day," November 11th known as "Veterans Day," that Thursday in November proclaimed by the President as "Thanksgiving Day," and December 25th.

(b) Any contractual provision between any community college district and its employees in effect on the effective date of the act that adds this subdivision shall prevail over any conflict regarding Dr. Martin Luther King, Jr. Day until the termination date of the contract or upon termination by mutual agreement of the parties, whichever occurs first.

(c) The Governor in appointing any other day for a public fast, thanksgiving, or holiday may provide whether the community colleges shall close on the day. If the Governor does not provide whether the community colleges shall close, they shall continue in session on all special or limited holidays appointed by the Governor, but shall close on all other days appointed by the Governor for a public fast, thanksgiving, or holiday.

(d) The community colleges shall close on every day appointed by the President as a public fast, thanksgiving, or holiday, unless it is a special or limited holiday.

(e) The community colleges shall continue in session on all legal holidays other than those designated by or pursuant to this section, and shall hold proper exercises commemorating the day.

(f) When any of the holidays on which the schools would be closed fall on Sunday, the community colleges shall close on the Monday following, except that (1) if Lincoln Day falls on a Sunday, the community colleges may observe this holiday on the preceding or following Friday, the following Monday, or the following Tuesday, and maintain classes on the date specified in subdivision (a) where

applicable, or (2) if Lincoln Day falls on a Monday, the community colleges may observe this holiday on the preceding or following Friday, that Monday, or the following Tuesday, and maintain classes on the date specified in subdivision (a) where applicable.

(g) When any of the holidays on which the schools would be closed, except Lincoln Day, fall on Saturday, the community colleges shall close on the preceding Friday, and that Friday shall be declared a state holiday.

(h) If any holiday on which the community colleges are required to close pursuant to subdivision (a) occurs under federal law on a date different than the date specified in subdivision (a), the governing board of any community college district may close the community colleges of the district on the date recognized by federal law and maintain classes on the date specified in subdivision (a).

(i) When Veterans Day would fall on Tuesday, the governing board of a community college district may close the colleges on the preceding Monday, and maintain classes on the date specified in subdivision (a). When Veterans Day would fall on Wednesday, the governing board of a community college district may close the colleges on either the preceding Monday or the following Friday, and maintain classes on the date specified in subdivision (a). When Veterans Day would fall on Thursday, the governing board of a community college district may close the colleges on the following Friday, and maintain classes on the date specified in subdivision (a).

(j) When Lincoln Day would fall on Tuesday, the governing board of a community college district may close the colleges on the preceding Monday, the preceding Friday, or the following Friday, and maintain classes on the date specified in subdivision (a) where appropriate. When Lincoln Day would fall on Wednesday, the governing board of a community college district may close the colleges on the preceding Monday, the preceding Friday, or the following Friday, and maintain classes on the date specified in subdivision (a). When Lincoln Day would fall on Thursday, the governing board of a community college district may close the colleges on the preceding Friday or the following Friday, and maintain classes on the date specified in subdivision (a). When Lincoln Day falls on Saturday, the governing board of a community college district may close the colleges on the preceding Friday or the following Friday, and maintain classes on the date specified in subdivision (a) where appropriate.

(k) In addition to the holidays specified in subdivision (a), a community college may close on March 31 known as "Cesar Chavez Day" if the governing board, pursuant to a memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, agrees to close the community college for that purpose.

(*l*) Nothing in this section is to be interpreted as authorizing a community college district governing board to maintain community colleges in its district for a lesser number of days during the college

year than the minimum established by law.

SEC. 7. Section 88203 of the Education Code is amended to read:

88203. All probationary or permanent employees a part of the classified service shall be entitled to the following paid holidays provided they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday: January 1, February 12 known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," July 4, the first Monday in September known as "Labor Day," November 11 known as "Veterans Day," that Thursday in November proclaimed by the President as "Thanksgiving Day," December 25, every day appointed by the President, or the Governor of this state, as provided for in subdivisions (b) and (c) of Section 79020 for a public fast, thanksgiving or holiday, or any day declared a holiday under Section 1318 or 79022 for classified or academic employees. School recesses during the Christmas and Easter periods shall not be considered holidays for classified employees who are normally required to work during that period; provided, however, that this shall not be construed as affecting vacation rights specified in Section 88203.

Regular employees of the district who are not normally assigned to duty during the school holidays of December 25 and January 1 shall be paid for those two holidays provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.

When a holiday herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. When a holiday herein listed falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. When a classified employee is required to work on any of said holidays, he or she shall be paid compensation, or given compensating time off, for such work, in addition to the regular pay received for the holiday, at the rate of time and one-half his or her regular rate of pay.

The provisions of Article 3 (commencing with Section 79020) of Chapter 8 of Part 48 of this division shall not be construed to in any way limit the provisions of this section, nor shall anything in this section be construed to prohibit the governing board from adopting separate work schedules for the academic and the classified services, or from providing holiday pay for employees who have not been in paid status on the days specified herein. Notwithstanding the adoption of separate work schedules for the academic and the classified services, on any schoolday during which students would otherwise have been in attendance but are not and for which faculty receive regular pay, classified personnel shall also receive regular pay whether or not they are required to report for duty that day.

In addition to the other paid holidays specified in this section, the classified service may be entitled to a paid holiday on March 31

known as "Cesar Chavez Day" provided that they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday, if the governing board, pursuant to a memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, agrees to the paid holiday.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

SEC. 8. Section 6700 of the Government Code is amended to read:

6700. The holidays in this state are:

(a) Every Sunday.

(b) January 1st.

(c) The third Monday in January, known as "Dr. Martin Luther King, Jr. Day."

(d) February 12th, known as "Lincoln Day."

(e) The third Monday in February.

(f) March 31st known as "Cesar Chavez Day."

(g) The last Monday in May.

(h) July 4th.

(i) The first Monday in September.

(j) September 9th, known as "Admission Day."

(k) The second Monday in October, known as "Columbus Day."

(*l*) November 11th, known as "Veterans Day."

(m) December 25th.

(n) Good Friday from 12 noon until 3 p.m.

(o) Every day appointed by the President or Governor for a public fast, thanksgiving, or holiday.

Except for the Thursday in November appointed as Thanksgiving Day, this subdivision and subdivisions (c) and (f) shall not apply to a city, county, or district unless made applicable by charter, or by ordinance or resolution of the governing body thereof.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 9. Section 6701 of the Government Code is amended to read:

6701. If January 1st, February 12th, March 31st, July 4th, September 9th, November 11th, or December 25th falls upon a Sunday, the Monday following is a holiday. If November 11th falls upon a Saturday, the preceding Friday is a holiday.

If any holiday designated in Section 6700 falls on a Saturday, the board of supervisors of any county may by ordinance or resolution

provide that an alternate day shall be a holiday for the employees of the county, except those employees of the county working as court attachés or as clerks of the superior, municipal, or justice courts.

SEC. 10. Section 6717 is added to the Government Code, to read:

6717. The Governor shall annually proclaim March 31 as "Cesar Chavez Day."

SEC. 11. Section 19853 of the Government Code is amended to read:

19853. (a) Except as provided in subdivision (c), all employees shall be entitled to the following holidays: January 1, the third Monday in January, February 12, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the day after Thanksgiving, December 25, the day chosen by an employee pursuant to Section 19854, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

When a day herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11th falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays herein mentioned, and who does work on any of these holidays, shall be entitled to be paid compensation or given compensating time off for that work in accordance with their classification's assigned workweek group. For the purpose of computing the number of hours worked, time when an employee is excused from work because of holidays, sick leave, vacation, annual leave, or compensating time off, shall be considered as time worked by the employee.

(b) If the provisions of subdivision (a) are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) Any employee, who is either excluded from the definition of state employee in subdivision (c) of Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, shall be entitled to the following holidays, with pay, in addition to any official state holiday appointed by the Governor:

(1) January 1, the third Monday in January, February 12, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, Thanksgiving Day, the day after Thanksgiving, December 25, and any personal holiday chosen pursuant to Section 19854. The department head or designee may require an employee to provide five working days' advance notice before a personal holiday is taken, and may deny use subject to operational needs.

(2) When November 11 falls on a Saturday, employees shall be entitled to the preceding Friday as a holiday with pay.

(3) When a holiday, other than a personal holiday or November 11, falls on a Saturday, an employee shall, regardless of whether he or she works on the holiday, only accrue an additional eight hours of personal holiday credit per fiscal year for the holiday. The holiday credit shall be accrued on the actual date of the holiday and shall be used within the same fiscal year.

(4) When a holiday other than a personal holiday falls on Sunday, employees shall be entitled to the following Monday as a holiday with pay.

(5) Employees who are required to work on a holiday shall be entitled to pay or compensating time off for this work in accordance with their classification's assigned workweek group.

(6) Less than full-time employees shall receive holidays in accordance with Department of Personnel Administration rules.

(d) Any employee, as defined in subdivision (c) of Section 3513, may elect to receive eight hours of holiday credit for March 31, known as "Cesar Chavez Day," in lieu of receiving eight hours of personal holiday credit in accordance with Section 19854.

SEC. 12. Nothing in this act shall be construed to increase the total number of paid state holidays in law or in collective bargaining agreements in existence on January 1, 1994.

SEC. 13. Notwithstanding any other provision of law, the provisions of this act shall not be construed to require any school district to grant a paid holiday to any certificated or classified employee. If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action.

CHAPTER 1012

An act to amend Section 179.4 of, to add Sections 180.75 and 180.10 to, and to add and repeal Sections 180.8 and 180.9 of, the Streets and Highways Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. It is the intent of the Legislature that the Director of Transportation have the continued authority and flexibility to contract out design services for a project, as defined in subdivision (a) of Section 180 of the Streets and Highways Code. It is the further

intent of the Legislature that Sections 3 to 6, inclusive, of this act be construed as creating a new and independent basis for the Director of Transportation to justify contracting out design services for seismic retrofit projects.

SEC. 2. Section 179.4 of the Streets and Highways Code is amended to read:

179.4. (a) The department and the Counties of Los Angeles and Santa Clara shall immediately proceed to implement this article by developing criteria for the assessment and prioritization of bridge retrofit needs and by collecting data that will be evaluated by that criteria. The director shall establish a statewide priority list for seismic retrofit projects based on the bridge assessments performed by the department and the Counties of Los Angeles and Santa Clara, taking into account the assigned risk given to any bridge or structure, the exposure of the public in case of a structural failure, and the probability of the occurrence of an earthquake in any given area.

(b) (1) The department and the Counties of Los Angeles and Santa Clara shall prepare or cause the preparation of retrofit plans, specifications, and estimates for all projects included in the priority list established pursuant to subdivision (a). All affected local agencies, for projects within their respective jurisdictions, and the department, with respect to projects on state highways, shall by December 31, 1991, execute the necessary construction contracts for all projects on the priority list, except that, upon a local agency's notification of the director, the date for execution of construction contracts for projects on the priority list shall be extended to December 31, 1992.

(2) Notwithstanding paragraph (1), construction contracts for projects involving the retrofitting of multiple-column bents, for which the identification of appropriate structural solutions is dependent upon active research, may be delayed so long as they are executed on or before December 31, 1993.

(3) All deficient bridges and structures shall be retrofitted or replaced by December 31, 1992, or, in the case of a local agency which has notified the director pursuant to paragraph (1), by December 31, 1993, except for bridges and structures involving the retrofitting of multiple-column bents, which shall be completed by December 31, 1994.

(4) Construction contracts for seismic repair, replacement, and retrofit shall be awarded to the lowest responsible bidder through a competitive bid contract, consistent with existing statutes.

SEC. 3. Section 180.75 is added to the Streets and Highways Code, to read:

180.75. The Legislature hereby finds and declares that there is a compelling public interest in authorizing the department to contract out the design services for seismic retrofit projects. The Legislature further finds and declares that contracting out design services associated with seismic retrofit projects is a new state function to assist in project delivery and does not duplicate the existing functions

of the department.

SEC. 4. Section 180.8 is added to the Streets and Highways Code, to read:

180.8. (a) The director may contract out the design services for projects undertaken pursuant to this article in order to enhance or assist seismic retrofit project delivery. Without the ability to contract out the design and engineering portion of the seismic retrofit projects, the Legislature finds that the department will not be able to adequately, competently, or satisfactorily perform and deliver seismic retrofit projects. The director may contract for the services of engineers, architects, surveyors, planners, environmental specialists, and materials testing specialists, in addition to those already employed by the department, in order to provide professional and technical project development services to the department whenever, in the judgment of the director those services are necessary in order to timely deliver seismic retrofit projects.

(b) Routine inspection of work related to the contracts specified in subdivision (a) may be conducted by the contractor. However, the department is ultimately responsible for all inspections.

(c) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1997, deletes or extends that date.

SEC. 5. Section 180.9 is added to the Streets and Highways Code, to read:

180.9. (a) The seismic retrofit projects contracted out pursuant to Section 180.8 shall be subject to Article 1.5 (commencing with Section 10115) of Chapter 1 of Part 2 of Division 2 of the Public Contract Code, as to projects not subject to Part 23 of Title 49 of the Code of Federal Regulations.

(b) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1997, deletes or extends that date.

SEC. 6. Section 180.10 is added to the Streets and Highways Code, to read:

180.10. Pursuant to subdivision (d) of Section 180.1, the department shall make reports at the end of each calendar year to the Joint Legislative Budget Committee and the committees in each house of the Legislature that consider transportation issues regarding the department's progress toward completion of seismic retrofit projects. The department shall include in the reports data concerning the utilization of contracting out for design services for seismic retrofit projects.

SEC. 7. The Legislature finds and declares that the timing and process for the adoption of the state transportation improvement program is specified in the statutes, specifically Section 14529 of the Government Code. The Department of Transportation, the California Transportation Commission, and regional transportation planning agencies shall not take any action to reprogram the state transportation improvement program until the next statutory cycle.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to clarify provisions regarding the state transportation improvement program and the competitive bidding process and to provide for the seismic retrofit of state highways as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1013

An act to add Section 13073.1 to the Government Code, relating to the Department of Finance.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 13073.1 is added to the Government Code, to read:

13073.1. Whenever the department issues reports containing population breakdowns or analyses based on race or ethnicity, it shall report Asian-Pacific Islanders as a distinct category, and not combine Asian-Pacific Islanders into any other category.

CHAPTER 1014

An act to amend Sections 1980, 1981, 1983.5, 48915, 48915.2, 48915.5, 48916, and 48918 of, to add Section 48926 to, and to add Article 3.5 (commencing with Section 32225) to Chapter 2 of Part 19 of, and to repeal Sections 1982.5 and 48915.7 of, the Education Code, relating to education.

[Approved by Governor September 28, 1994. Filed with Secretary of State September 29, 1994.]

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

SECTION 1. Section 1980 of the Education Code is amended to read:

1980. A county board of education may establish and maintain one or more community schools. If a county board of education does not establish and maintain one or more community schools, the county superintendent of schools shall develop a plan with the governing boards of the school districts in that county to ensure that pupils in that county who need an alternative school placement are

served.

SEC. 2. Section 1981 of the Education Code is amended to read:

1981. The county board of education may enroll in community schools any of the following:

(a) Pupils who have been expelled from a school district for any reason other than those specified in subdivision (a), (c), or (e) of Section 48915.

(b) Pupils who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board or pupils whose school districts of attendance have, at the request of the pupil's parent or guardian, approved the pupil's enrollment in a county community school.

(c) Pupils who are probation-referred pursuant to Sections 300, 601, 602, and 654 of the Welfare and Institutions Code, or who are on probation or parole and who are not in attendance in any school, or who are expelled for any of the reasons specified in subdivision (a), (c), or (e) of Section 48915.

(d) Homeless children.

SEC. 3. Section 1982.5 of the Education Code is repealed.

SEC. 4. Section 1983.5 of the Education Code is amended to read:

1983.5. (a) Notwithstanding any other provision of law, community school apportionments may be claimed for pupils enrolled in kindergarten and grades 1 to 6, inclusive, who have been expelled from a school district, and for pupils in grades 7 to 12, inclusive.

(b) Notwithstanding any other provision of law, apportionments claimed by a county office of education for units of average daily attendance for pupils enrolled pursuant to subdivision (c) of Section 1981 in excess of the number claimed by that county office in the 1991–92 fiscal year shall be funded at the statewide average revenue limit per unit of average daily attendance for that category of enrollment.

SEC. 5. Article 3.5 (commencing with Section 32225) is added to Chapter 2 of Part 19 of the Education Code, to read:

Article 3.5. Communication Devices in Classrooms

32225. It is the intent of the Legislature that the governing board of each school district and each county superintendent of schools equip schools with two-way communication devices to be installed in each classroom used by pupils in kindergarten and grades 1 to 12, inclusive, that is not currently so equipped. For the purposes of this section, classroom includes portable classrooms. The communication devices shall be for the use of teachers or other employees or agents of the school in the event of a medical emergency or violent crime in the classroom.

32226. As used in this article, "two-way communication devices" include, but are not necessarily limited to, telephones, intercoms, walkie-talkies, or portable radios.

SEC. 6. Section 48915 of the Education Code is amended to read:

48915. (a) Except as provided in subdivisions (c) and (f), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent finds, and so reports in writing to the governing board, that expulsion is inappropriate, due to the particular circumstance, which finding shall be set out in the report of the incident:

(1) Causing serious physical injury to another person, except in self-defense.

(2) Possession of any knife, explosive, or other dangerous object of no reasonable use to the pupil.

(3) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(4) Robbery or extortion.

(b) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon a finding that the pupil committed an act listed in subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel shall be based on a finding of one or both of the following:

(1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) Due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(c) With respect to a pupil in any of grades 7 to 12, inclusive, the principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to a pupil for an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district.

(2) Causing harm to, or threatening to harm, another person with a knife.

(3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(d) With respect to a pupil in any of grades 7 to 12, inclusive, who

has been suspended pursuant to subdivision (c), the governing board shall order the pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:

(1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.

(2) Is not provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

(3) Is not housed at the schoolsite attended by the pupil at the time of suspension.

(e) Notwithstanding paragraph (2) of subdivision (d), if the county superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or at an elementary school and that the only option for placement is at another comprehensive middle, junior, or senior high school, or another elementary school, the pupil may be referred to a program of study that is provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

(f) The provisions of paragraph (2) of subdivision (c) and subdivision (d) also apply to a pupil in kindergarten or any of grades 1 to 6, inclusive.

(g) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds, violated subdivision (f), (g), (h), (i), (j), (k), or (*l*) of Section 48900 or Section 48900.2 and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(h) The governing board shall refer a pupil who has been expelled pursuant to subdivision (b) or (g) to a program of study that meets all of the conditions specified in subdivision (d).

(i) If a pupil in kindergarten or any of grades 1 to 3, inclusive, is expelled, the expulsion is suspended unless the pupil in placed in an age appropriate alternative education program.

(j) As used in this section, "knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade longer than 3 ½ inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

SEC. 6.5. Section 48915 of the Education Code is amended to read:

48915. (a) Except as provided in subdivisions (c) and (f), the principal or the superintendent of schools shall recommend the

expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent finds, and so reports in writing to the governing board, that expulsion is inappropriate, due to the particular circumstance, which finding shall be set out in the report of the incident:

(1) Causing serious physical injury to another person, except in self-defense.

(2) Possession of any knife, explosive, or other dangerous object of no reasonable use to the pupil.

(3) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(4) Robbery or extortion.

(b) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil committed an act listed in subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel shall be based on a finding of one or both of the following:

(1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) Due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(c) With respect to a pupil in any of grades 7 to 12, inclusive, the principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to a pupil for an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district.

(2) Causing harm to, or threatening to harm, another person with a knife.

(3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(d) With respect to a pupil in any of grades 7 to 12, inclusive, who has been suspended pursuant to subdivision (c), the governing board shall order the pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program

of study that meets all of the following conditions:

(1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.

(2) Is not provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

(3) Is not housed at the schoolsite attended by the pupil at the time of suspension.

(e) Notwithstanding paragraph (2) of subdivision (d), if the county superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or at an elementary school and that the only option for placement is at another comprehensive middle, junior, or senior high school, or another elementary school, the pupil may be referred to a program of study that is provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

(f) The provisions of paragraph (2) of subdivision (c) and subdivision (d) also apply to a pupil in kindergarten or any of grades 1 to 6, inclusive.

(g) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds, violated subdivision (f), (g), (h), (i), (j), (k), (*l*), or (m) of Section 48900 or Section 48900.2 and either of the following:

(1) That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) That due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(h) The governing board shall refer a pupil who has been expelled pursuant to subdivision (b) or (g) to a program of study that meets all of the conditions specified in subdivision (d).

(i) If a pupil in kindergarten or any of grades 1 to 3, inclusive, is expelled, the expulsion is suspended, unless the pupil is placed in an age appropriate alternative education program.

(j) As used in this section, "knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade longer than 3 ½ inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

SEC. 7. Section 48915.2 of the Education Code is amended to read:

48915.2. (a) A pupil expelled from school for any of the offenses listed in subdivision (a), (c), or (f) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of Section 1981, a juvenile court school, as

described in Section 48645.1, or a program of study pursuant to subdivision (d) of Section 48915.

(b) After a determination has been made, pursuant to a hearing under Section 48918, that an individual expelled from another school district for any act described in subdivision (a), (c), or (f) of Section 48915 does not pose a danger to either the pupils or employees of the school district, the governing board of a school district may permit the individual to enroll in the school district after the term of expulsion, subject to one of the following conditions:

(1) He or she has established legal residence in the school district, pursuant to Section 48200.

(2) He or she is enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600) of Part 26 or pursuant to Article 1.5 (commencing with Section 48209) of Chapter 2 of Part 27.

SEC. 8. Section 48915.5 of the Education Code is amended to read:

48915.5. (a) In a matter involving a pupil with previously identified exceptional needs who is currently enrolled in a special education program, the governing board may order the pupil expelled pursuant to subdivisions (b), (d), or (f) of Section 48915 only if all of the following conditions are met:

(1) An individualized education program team meeting is held and conducted pursuant to Article 3 (commencing with Section 56340) of Chapter 2 of Part 30.

(2) The team determines that the misconduct was not caused by, or was not a direct manifestation of, the pupil's identified disability.

(3) The team determines that the pupil had been appropriately placed at the time the misconduct occurred.

The term "pupil with previously identified exceptional needs," as used in this section, means a pupil who meets the requirements of Section 56026 and who, at the time the alleged misconduct occurred, was enrolled in a special education program, including enrollment in nonpublic schools pursuant to Section 56365 and state special schools.

(b) For purposes of this section, all applicable procedural safeguards prescribed by federal and state law and regulations apply to proceedings to expel pupils with previously identified exceptional needs, except that, notwithstanding Section 56321, subdivision (e) of Section 56506, or any other provision of law, parental consent is not required prior to conducting a preexpulsion educational assessment pursuant to subdivision (e), or as a condition of the final decision of the local board to expel.

(c) Each local educational agency, pursuant to the requirements of Section 56221, shall develop procedures and time lines governing expulsion procedures for individuals with exceptional needs.

(d) The parent of each pupil with previously identified exceptional needs has the right to participate in the individualized education program team meeting conducted pursuant to subdivision

(a) preceding the commencement of expulsion proceedings, following the completion of a preexpulsion assessment pursuant to subdivision (e), through actual participation, representation, or a telephone conference call. The meeting shall be held at a time and place mutually convenient to the parent and local educational agency within the period, if any, of the pupil's preexpulsion suspension. A telephone conference call may be substituted for the meeting. Each parent shall be notified of his or her right to participate in the meeting at least 48 hours prior to the meeting. Unless a parent has requested a postponement, the meeting may be conducted without the parent's participation, if the notice required by this subdivision has been provided. The notice shall specify that the meeting may be held without the parent's participation, unless the parent requests a postponement for up to three additional schooldays pursuant to this subdivision. Each parent may request that the meeting be postponed for up to three additional schooldays. In the event that a postponement has been granted, the local educational agency may extend any suspension of a pupil for the period of postponement if the pupil continues to pose an immediate threat to the safety of himself, herself, or others and the local educational agency notifies the parent that the suspension will be continued during the postponement. However, the suspension shall not be extended beyond 10 consecutive schooldays unless agreed to by the parent, or by a court order. If a parent who has received proper notice of the meeting refuses to consent to an extension beyond 10 consecutive schooldays and chooses not to participate, the meeting may be conducted without the parent's participation.

(e) In determining whether a pupil should be expelled, the individualized education program team shall base its decision on the results of a preexpulsion educational assessment conducted in accordance with the guidelines of Section 104.35 of Title 34 of the Code of Federal Regulations, which shall include a review of the appropriateness of the pupil's placement at the time of the alleged misconduct, and a determination of the relationship, if any, between the pupil's behavior and his or her disability.

In addition to the preexpulsion educational assessment results, the individualized education program team shall also review and consider the pupil's health records and school discipline records. The parent, pursuant to Section 300.504 of Title 34 of the Code of Federal Regulations, is entitled to written notice of the local educational agency's intent to conduct a preexpulsion assessment. The parent shall make the pupil available for the assessment at a site designated by the local educational agency without delay. The parent's right to an independent assessment under Section 56329 applies despite the fact that the pupil has been referred for expulsion.

(f) If the individualized education program team determines that the alleged misconduct was not caused by, or a direct manifestation of, the pupil's disability, and if it is determined that the pupil was appropriately placed, the pupil shall be subject to the applicable

disciplinary actions and procedures prescribed under this article.

(g) The parent of each pupil with previously identified exceptional needs has the right to a due process hearing conducted pursuant to Section 1415 of Title 20 of the United States Code if the parent disagrees with the decision of the individualized education program team made pursuant to subdivision (f), or if the parent disagrees with the decision to rely upon information obtained, or proposed to be obtained, pursuant to subdivision (e).

(h) No expulsion hearing shall be conducted for an individual with exceptional needs until all of the following have occurred:

(1) A preexpulsion assessment is conducted.

(2) The individualized education program team meets pursuant to subdivision (a).

(3) Due process hearings and appeals, if initiated pursuant to Section 1415 of Title 20 of the United States Code, are completed.

(i) Pursuant to subdivision (a) of Section 48918, the statutory times prescribed for expulsion proceedings for individuals with exceptional needs shall commence after the completion of paragraphs (1), (2), and (3) in subdivision (h).

(j) If an individual with exceptional needs is excluded from schoolbus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent.

SEC. 9. Section 48915.7 of the Education Code is repealed.

SEC. 10. Section 48916 of the Education Code is amended to read:

48916. An expulsion order shall remain in effect until the governing board may, in the manner prescribed in this article, order the readmission of a pupil. At the time an expulsion of a pupil for an act other than those listed in subdivision (c) or (f) of Section 48915 is ordered, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil may apply for readmission to a school maintained by the district. A pupil expelled pursuant to subdivision (d) or (f) of Section 48915 may apply for readmission not earlier than the last day of the semester following the semester in which the expulsion occurred.

The governing board shall recommend a plan of rehabilitation for the pupil, which may include, but not be limited to, periodic review as well as assessment at the time of application for readmission. The plan may also include recommendations for counseling, employment, community service, or other rehabilitative programs.

The governing board of each school district shall adopt rules and regulations establishing a procedure for the filing and processing of requests for readmission. Upon completion of the readmission process, the governing board shall readmit the pupil unless the board makes a finding that the pupil has not met the conditions of the rehabilitation plan or continues to cause danger to the physical safety of the pupil or others. A description of the procedure shall be made available to the pupil and the pupil's parent or guardian at the time the expulsion order is entered.

SEC. 11. Section 48918 of the Education Code is amended to read:

48918. The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to, the following:

(a) The pupil shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 30 schooldays of the date the principal or the superintendent of schools determines that the pupil has committed any of the acts enumerated in Section 48900, unless the pupil requests, in writing, that the hearing be postponed. The adopted rules and regulations shall require that the pupil shall be entitled to at least one postponement for a period of not more than 30 calendar days of an expulsion hearing. Thereafter, any additional postponement may be granted at the discretion of the governing board.

A decision of the governing board whether to expel a pupil shall be made within 10 schooldays following the conclusion of the hearing, unless the pupil requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, or if the district governing board does not meet on a weekly basis, the governing board shall make its decision about a pupil's expulsion within 40 schooldays after the date of the pupil's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the superintendent, unless the pupil requests in writing that the decision be postponed.

In the event that compliance by the governing board with the time requirements for the conducting of an expulsion hearing under this subdivision is impracticable, the superintendent of schools or the superintendent's designee may, for good cause, extend the time period for the holding of the expulsion hearing for an additional five schooldays. Reasons for the extension of the time for the hearing shall be included as a part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

(b) Written notice of the hearing shall be forwarded to the pupil at least 10 calendar days prior to the date of the hearing. The notice shall include: the date and place of the hearing; a statement of the specific facts and charges upon which the proposed expulsion is based; a copy of the disciplinary rules of the district which relate to the alleged violation; a notice of the parent, guardian, or pupil's obligation pursuant to subdivision (b) of Section 48915.1; and notice of the opportunity for the pupil or the pupil's parent or guardian to appear in person or employ and be represented by counsel, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil's behalf, including witnesses.

(c) Notwithstanding Section 54593 of the Government Code and Section 35145 of this code, the governing board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public, unless the pupil requests, in writing, at least five days prior to the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the governing board may meet in closed session for the purpose of deliberating and determining if the pupil should be expelled.

If the governing board or the hearing officer or administrative panel appointed under subdivision (d) to conduct the hearing admits any other person to a closed deliberation session, the parent or guardian of the pupil, the pupil, and the counsel of the pupil shall also be allowed to attend the closed deliberations.

(d) In lieu of conducting an expulsion hearing itself, the governing board may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code and Section 35207 of this code, for a hearing officer to conduct the hearing. The governing board may also appoint an impartial administrative panel of three or more certificated persons, none of whom shall be members of the board or employed on the staff of the school in which the pupil is enrolled. The hearing shall be conducted in accordance with all of the procedures established under this section.

(e) Within three schooldays following the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing board. If the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the pupil shall be immediately reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs. Placement in one or more of these programs shall be made by the superintendent of schools or the superintendent's designee after consultation with school district personnel, including the pupil's teachers, and the pupil's parent or guardian. The decision not to recommend expulsion shall be final.

(f) If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the governing board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the governing board accepts the recommendation calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon the results of any supplementary hearing conducted pursuant to this section that the governing board may order.

The decision of the governing board to expel a pupil shall be based

upon substantial evidence relevant to the charges adduced at the expulsion hearing or hearings. Except as provided in this section, no evidence to expel shall be based solely upon hearsay evidence. The governing board or the hearing officer or administrative panel may, upon a finding that good cause exists, determine that the disclosure of the identity of a witness and the testimony of that witness at the hearing would subject the witness to an unreasonable risk of harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the governing board or the hearing officer or administrative panel. Copies of these sworn declarations which are edited in such a manner as to delete the name and identity of the witness, shall be made available to the pupil.

(g) A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.

(h) Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the governing board to expel shall be supported by substantial evidence showing that the pupil committed any of the acts enumerated in Section 48900.

(i) Whether an expulsion hearing is conducted by the governing board or before a hearing officer or administrative panel, final action to expel a pupil shall be taken only by the governing board in a public session. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent by the superintendent of schools or his or her designee to the pupil or the pupil's parent or guardian and shall be accompanied by notice of the right to appeal the expulsion to the county board of education and of the parent, guardian, or pupil's obligation pursuant to subdivision (b) of Section 48915.1, to inform the new school district of an enrolling pupil's expulsion, upon enrollment in a new school district. The notice to the pupil or the pupil's parent or guardian of the decision to expel also shall be accompanied by a list of education alternatives available to the pupil during the time of expulsion, so that the pupil's education is disrupted to the least possible extent.

(j) The governing board shall maintain a record of each expulsion, including the cause therefor. Records of expulsions shall be a nonprivileged, disclosable public record.

The expulsion order and the causes therefor shall be recorded in the pupil's mandatory interim record and shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a request from the admitting school for the pupil's school records.

SEC. 12. Section 48926 is added to the Education Code, to read:

48926. The principal of a school shall post, on a bulletin board at the schoolsite that is accessible to all pupils, a notice of the suspension