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STATUTES OF CALIFORNIA

REGULAR SESSION

1966

Began Monday, February 7, 1966, and Adjourned  
Monday, April 4, 1966

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# STATUTES OF CALIFORNIA

PASSED AT THE 1966 REGULAR SESSION OF THE LEGISLATURE

## CHAPTER 1

*An act to add Sections 17181.5 and 18405.5 to the Revenue and Taxation Code, relating to personal income taxes.*

[Approved by Governor April 13, 1966. Filed with Secretary of State April 13, 1966.]

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

SECTION 1. Section 17181.5 is added to the Revenue and Taxation Code, to read:

17181.5. (a) Any individual who is a nonresident for all or any portion of the taxable year shall deduct the minimum standard deduction provided by Section 17171 and the deductions set forth in this article, in the proportion that such individual's adjusted gross income from California sources bears to his adjusted gross income from all sources.

(b) An individual subject to the provisions of subdivision (a) must apportion the deduction provided for by Section 17171, regardless of the amount of his adjusted gross income, and shall not be permitted to determine his tax under the tax table provided in Section 17048.

Sec. 2. Section 18405.5 is added to said code, to read:

18405.5. Any individual who is a nonresident for all or any portion of the taxable year shall be required to file a return, regardless of the amount of his adjusted gross income, if he is required to pay any tax imposed by this part after apportioning his deductions as provided in Section 17181.5.

SEC. 3. The provisions of this act shall be applied to taxable years ending on and after December 31, 1966.

## CHAPTER 2

*An act to amend Sections 6092, 6094, 6242 and 25101 of, to add Section 6406 to, and to add an article heading to Chapter 17 of Part 11 of Division 2, immediately to precede Section 25101 of, and to add Article 2 (commencing with Section 25120) to Chapter 17 of Part 11 of Division 2 of, the Revenue and Taxation Code, relating to taxation.*

[Approved by Governor April 13, 1966 Filed with  
Secretary of State April 13, 1966 ]

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

SECTION 1. Section 6092 of the Revenue and Taxation Code is amended to read:

6092. The certificate relieves the seller from liability for sales tax only if taken in good faith from a person who is engaged in the business of selling tangible personal property and who holds the permit provided for in Article 2 (commencing with Section 6066) of this chapter.

SEC. 2. Section 6094 of said code is amended to read:

6094. If a purchaser who gives a certificate makes any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the use shall be taxable to the purchaser under Chapter 3 (commencing with Section 6201) of this part as of the time the property is first used by him, and the sales price of the property to him shall be the measure of the tax.

SEC. 3. Section 6242 of said code is amended to read:

6242. The certificate relieves the person selling the property from the duty of collecting the use tax only if taken in good faith from a person who is engaged in the business of selling tangible personal property and who holds the permit provided for by Article 2 (commencing with Section 6066) of Chapter 2 of this part.

SEC. 4. Section 6406 is added to said code, to read:

6406. A credit shall be allowed against, but shall not exceed, the taxes imposed on any person by Chapter 3 (commencing with Section 6201) of this part and by any ordinance enacted pursuant to Part 1.5 (commencing with Section 7200) of this division by reason of the storage, use, or other consumption of tangible personal property in this state to the extent that the person has paid a retail sales or use tax, or reimbursement therefor, imposed with respect to that property by any other state, political subdivision thereof, or the District of Columbia prior to the storage, use, or other consumption of that property in this state. The credit shall be apportioned to the taxes against which it is allowed in proportion to the amounts of those taxes.

SEC. 5. An article heading is added to Chapter 17 of Part 11 of Division 2 of said code immediately to precede Section 25101, to read:

#### Article 1. General Provisions

SEC. 6. Section 25101 of said code is amended to read:

25101. When the income of a taxpayer subject to the tax imposed under this part is derived from or attributable to sources both within and without the state the tax shall be measured by the net income derived from or attributable to sources within this state in accordance with the provisions of Article 2 (commencing with Section 25120 of this chapter; provided, however, that any method of apportionment shall take into account as income derived from or attributable to sources without the state, income derived from or attributable to transportation by sea or air without the state, whether or not such transportation is located in or subject to the jurisdiction of any other state, the United States or any foreign country.

If the Franchise Tax Board reapportions net income upon its examination of any return, it shall, upon the written request of the taxpayer, disclose to it the basis upon which its reapportionment has been made.

SEC. 7. Article 2 (commencing with Section 25120) is added to Chapter 17 of Part 11 of Division 2 of said code, to read:

#### Article 2. Uniform Division of Income for Tax Purposes Act

25120. As used in Sections 25120 to 25139, inclusive, which shall hereafter be referred to as "this act," unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Nonbusiness income" means all income other than business income.

(e) "Sales" means all gross receipts of the taxpayer not allocated under Sections 25123 through 25127 of this code.

(f) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any

territory or possession of the United States, and any foreign country or political subdivision thereof.

25121. Any taxpayer having income from business activity which is taxable both within and without this state shall allocate and apportion its net income as provided in this act.

25122. For purposes of allocation and apportionment of income under this act, a taxpayer is taxable in another state if (a) in that state it is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (b) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

25123. Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in Sections 25124 through 25127 of this act.

25124. (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rent and royalties from tangible personal property are allocable to this state:

(1) If and to the extent that the property is utilized in this state, or

(2) In their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the income year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the income year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payor obtained possession.

25125. (a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(1) The property had a situs in this state at the time of the sale, or

(2) The taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

25126. Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

25127. (a) Patent and copyright royalties are allocable to this state:

(1) If and to the extent that the patent or copyright is utilized by the payor in this state, or

(2) If and to the extent that the patent or copyright is utilized by the payor in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

25128. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

25129. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the income year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the income year.

25130. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

25131. The average value of property shall be determined by averaging the values at the beginning and ending of the income year but the Franchise Tax Board may require the averaging of monthly values during the income year if reasonably required to reflect properly the average value of the taxpayer's property.

25132. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the income year by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the income year.

25133. Compensation is paid in this state if:

(a) The individual's service is performed entirely within the state; or

(b) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) Some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

25134. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the income year, and the denominator of which is the total sales of the taxpayer everywhere during the income year.

25135. Sales of tangible personal property are in this state if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States government or (2) the taxpayer is not taxable in the state of the purchaser.

25136. Sales, other than sales of tangible personal property, are in this state if:

(a) The income-producing activity is performed in this state; or

(b) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

25137. If the allocation and apportionment provisions of this act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the Franchise Tax Board may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one or more of the factors;

(c) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

25138. This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

25139. Sections 25120 to 25139, inclusive, may be cited as the Uniform Division of Income for Tax Purposes Act.



25140. It is not the intention of the Legislature in enacting this article to provide for the taxation of intercorporate dividends except in the state of commercial domicile of the receiving corporation.

SEC. 8. The provisions of this act effecting changes in the computation of taxes shall be applied, for the purpose of the taxes imposed under Chapter 2 (commencing with Section 23101) of Part 11 of Division 2 of the Revenue and Taxation Code, in the computation of taxes measured by income for income years beginning after December 31, 1966, and for the purpose of the tax imposed under Chapter 3 (commencing with Section 23501) of Part 11 of Division 2 of the Revenue and Taxation Code, for taxable years beginning after December 31, 1966, and the remaining provisions of this act shall become effective on July 1, 1967.

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### CHAPTER 3

*An act to amend Section 762.9 of the Agricultural Code, relating to inspection fees.*

[Approved by Governor April 15, 1966. Filed with  
Secretary of State April 15, 1966 ]

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

SECTION 1. Section 762.9 of the Agricultural Code is amended to read:

762.9. The director shall adopt a schedule of uniform fees to defray the cost of the required inspection and of certification. Each canner receiving deliveries of tomatoes for canning purposes is hereby designated as the authorized agent of the director to collect the inspection and certification fees chargeable to him and to each producer delivering such tomatoes. The cost of such inspection shall be borne equally by both the canner and the producer, but the total cost of such inspection shall in no event exceed forty cents (\$0.40) per ton. Moneys collected under the provisions of this section shall be remitted to the director weekly during the tomato canning season for deposit into the Department of Agriculture Fund to be used in carrying out the purposes of this chapter. Except as otherwise provided in this section, any money so collected and not used for the purposes of this chapter shall be returned to the canners from whom it was received for distribution to the canners and producers from whom the money was originally collected, in proportion to their several interests. In the event that the director determines as to any such money heretofore or hereafter collected as inspection and certification fees that the return thereof with respect to any canning season or seasons is impracticable because of the smallness of the amounts re-

turnable, or for any other reason, the money so collected shall not be so returned but shall remain in the Department of Agriculture Fund and be available for expenditure for the purposes of this chapter in any subsequent year or years.

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## CHAPTER 4

*An act to amend Sections 7059, 7068.2, 7076.5, 7137, and 7138 of, and to add Section 7074.5 to, the Business and Professions Code, relating to license fees of contractors.*

[Approved by Governor April 16, 1966 Filed with  
Secretary of State April 18, 1966.]

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

SECTION 1. Section 7059 of the Business and Professions Code is amended to read:

7059. The board may adopt reasonably necessary rules and regulations to effect the classification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage, as defined by Sections 7055, 7056, 7057, and 7058. A licensee may make application for classification and be classified in more than one classification if the licensee meets the qualifications prescribed by the board for such additional classification or classifications. The application shall be accompanied by the application fee fixed by this chapter. No license fee shall be charged for an additional classification or classifications.

Nothing contained in this section shall prohibit a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

SEC. 2. Section 7068.2 of said code is amended to read:

7068.2. If the individual qualifying for the license is a responsible managing officer or responsible managing employee and ceases for any reason whatsoever to be connected with the individual or firm to whom the license is issued, the licensee and the responsible managing officer or responsible managing employee qualifying for such license shall notify the registrar in writing within 30 days from such cessation. If a notice is given the license shall remain in force for a reasonable length of time to be determined by rules of the board.

If the licensee or his responsible managing officer or responsible managing employee qualifying for the license fails to notify the registrar in writing within the 30-day period, at the end of the period the license shall be automatically sus-

pended. The license shall be reinstated upon the qualification of an individual in place of the responsible managing officer or responsible managing employee who has ceased to be connected with the licensee.

To replace a responsible managing officer or responsible managing employee, the licensee shall file with the registrar an application, executed by the licensee or a member of the licensee firm, designating an individual to qualify as required by this chapter on behalf of the licensee. The application shall be accompanied by the fee fixed by this chapter and shall state that the individual qualifying has not had his license suspended or revoked or that he has not been connected with a licensee who has had a license suspended or revoked for reasons that would preclude such individual from personally qualifying as to the good character required of an applicant.

SEC. 3. Section 7074.5 is added to said code, to read:

7074.5. An application for an additional classification pursuant to the provisions of Section 7059 or an application to replace a responsible managing officer or employee pursuant to the provisions of Section 7068.2 shall become void when:

(a) The applicant or the examinee for the applicant, after having been scheduled for the qualifying examination, fails to attain a passing grade within six months from the date of filing the application.

(b) The applicant, prior to approval and after acceptance for filing, withdraws his application.

(c) The application is denied after a hearing conducted in accordance with the provisions of this chapter.

An application voided pursuant to the provisions of this section shall remain in possession of the registrar for such period as he deems necessary and shall not be returned to the applicant. Any reapplication shall be accompanied by the fee fixed by this chapter.

SEC. 4. Section 7076.5 of said code is amended to read:

7076.5. A contractor may request the board to inactivate his license by giving written notice to the board. The registrar shall thereupon issue to such person an inactive license certificate. The inactive license certificate may consist of an endorsement upon the contractor's license stating that it is inactive and does not permit the holder to transact business as a contractor. The board shall not refund any of the renewal fee which a licensee may have paid prior to requesting inactive status.

An inactive license which is not suspended or revoked may be reinstated upon 30 days' notice in writing to the registrar at any time within the period for which the license was issued, unless the board determines that grounds exist which would constitute grounds for the suspension or revocation of the license, and if the notice is accompanied by the full renewal fee for an active license provided for in subdivision (c) of Section 7137. No examination shall be required to reinstate an inactive license.

The holder of an inactive license shall not be entitled to practice as a contractor until his license is reinstated.

An inactive license shall be renewed on each established renewal date upon the making of application therefor and payment of the renewal fee required for an inactive license by subdivision (c) of Section 7137.

Any license remaining inactive for a period exceeding 10 years shall automatically be revoked.

The inactive status of a license shall not bar any disciplinary action by the board against a licensee for any of the causes stated in this chapter.

SEC. 5. Section 7137 of said code is amended to read:

7137. The amount of the fees prescribed by this chapter is that fixed by the following schedule:

(a) The application fee for an original license in a single classification is fifty dollars (\$50) but the board may increase the fee to not more than one hundred dollars (\$100).

The application fee for each additional classification applied for in connection with an original license is twenty dollars (\$20) but the board may increase the fee to not more than forty dollars (\$40).

(b) The fee for reexamination of an applicant for an original license who has previously applied for a license but has failed to qualify therefor is twenty dollars (\$20) but the board may increase the fee to not more than forty dollars (\$40).

(c) The renewal fee for an active license is fifty dollars (\$50), but the board may increase the fee to not more than one hundred dollars (\$100).

The renewal fee for an inactive license is fifteen dollars (\$15) but the board may increase the fee to not more than thirty dollars (\$30).

(d) The delinquency fee is an amount equal to fifty percent (50%) of the renewal fee.

(e) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to fifty percent (50%) of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(f) The application fee for each additional classification pursuant to the provisions of Section 7059 is twenty dollars (\$20) but the board may increase the fee to not more than forty dollars (\$40).

(g) The application fee to replace a responsible managing officer or employee pursuant to the provisions of Section 7068.2 is twenty dollars (\$20) but the board may increase the fee to not more than forty dollars (\$40).

SEC. 6. Section 7138 of said code is amended to read:

7138. An application, reapplication, or reexamination fee paid in connection with an application for an original license, an application for an additional classification, or an application to replace a responsible managing officer or employee as provided in subdivisions (a), (b), (f) and (g) of Section 7137 shall accrete to the Contractors' License Fund as an earned fee, and notwithstanding any other provision of law shall not thereafter be refunded, when:

(a) The application is accepted for filing.

(b) The applicant or the examinee for the applicant, after having failed the qualifying examination for an original license, is granted permission to take a reexamination.

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## CHAPTER 5

*An act to amend and renumber Section 6068 of, to amend Sections 6069, 6070, 6282, 6292, 8707, 8714, 9703, 9706, and 9776 of, to add Sections 6068, 6282.1, 6815, and to add Article 1.1 (commencing with Section 6470) to Chapter 5, Part 1, Division 2 to, and to repeal Sections 6067, 6451.5, 6452.5, 6454.5, 6591.5, and 9702 of, the Revenue and Taxation Code, relating to taxation.*

[Approved by Governor April 16, 1966. Filed with Secretary of State April 18, 1966.]

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

SECTION 1. Section 6067 of the Revenue and Taxation Code is repealed.

SEC. 2. Section 6068 of said code is amended and renumbered to read:

6067. After compliance with Sections 6066 and 6701 by the applicant, the board shall grant and issue to each applicant a separate permit for each place of business within the state. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

SEC. 3. Section 6068 is added to said code, to read:

6068. Upon such notification of a change of address as may be required by the board, a permit may be reissued for the new address of a business place of a permitholder without the filing of a new application.

SEC. 4. Section 6069 of said code is amended to read:

6069. A seller whose permit has been previously suspended or revoked shall pay the board a fee of fifteen dollars (\$15) for the renewal or issuance of a permit.

SEC 5. Section 6070 of said code is amended to read:

6070. Whenever any person fails to comply with any provision of this part relating to the sales tax or any rule or regulation of the board relating to the sales tax prescribed and adopted under this part, the board upon hearing, after giving the person 10 days' notice in writing specifying the time and place of hearing and requiring him to show cause why his permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person. The board shall give to the person written notice of the suspension or revocation of any of his permits. The notices herein required may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The board shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of this part relating to the sales tax and the regulations of the board.

SEC. 6. Section 6282 of said code is amended to read:

6282. There are exempted from the computation of the amount of the sales tax the gross receipts from sales of vehicles required to be registered under the Vehicle Code when the retailer is other than a person licensed or certificated pursuant to the Vehicle Code as a manufacturer, dealer, or dismantler.

This exemption does not extend to the rentals payable under a lease of tangible personal property.

SEC 7. Section 6282.1 is added to said code, to read:

6282.1. Notwithstanding the provisions of Section 6282, the gross receipts from the sale of boat trailers by persons in the business of selling boats or boat trailers are not exempt from the computation of the amount of sales tax.

SEC. 8. Section 6292 of said code is amended to read:

6292. (a) Except when the sale is by lease, when a vehicle required to be registered under the Vehicle Code is sold at retail by other than a person licensed or certificated pursuant to the Vehicle Code as a manufacturer, dealer or dismantler, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle must pay the use tax to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 4750.5 of the Vehicle Code.

(b) If the purchaser does not make timely application to that department, but is subject to penalty because of delinquency in effecting registration or transfer of registration of the vehicle, he then becomes liable also for penalty as specified in Section 6591 of this code, but no interest shall accrue.

(c) Application to that department by the purchaser shall relieve the purchaser of the obligation to file a return with the board under Section 6452.

SEC. 9. Section 6451.5 of said code is repealed.

SEC. 10. Section 6452.5 of said code is repealed.

SEC. 11. Section 6454.5 of said code is repealed.

SEC. 12. Article 1.1 (commencing with Section 6470) is added to Chapter 5, Part 1, Division 2 of said code, to read:

#### Article 1.1. Prepayment

6470. The provisions of this article do not apply to taxes imposed under ordinances adopted pursuant to Part 1.5 (commencing with Section 7200) of this division nor to persons filing returns for other than quarterly periods.

6471. Upon written notification by the board, any person whose estimated measure of tax liability under this part averages seventeen thousand dollars (\$17,000) or more per month, as determined by the board, shall, without regard to the measure of tax in any one month, prepay not less than 90 percent of the amount of state tax liability for each of the first two monthly periods of each quarterly period. Persons engaged in their present business during all of the corresponding quarterly period of the preceding year, or persons who are successors to a business which was in operation during all of that quarterly period, may satisfy the above prepayment requirement by payment of not less than 33 $\frac{1}{3}$  percent of the tax imposed by this part with respect to the measure of tax liability reported on the return or returns filed for that quarterly period. Prepayment shall be made during the quarterly period designated by the board and during each succeeding quarterly period until further notified in writing by the board.

6472. Prepayment shall be accompanied by a report of the amount of such prepayment in a form prescribed by the board and shall be made to the board on or before the 25th day next following the end of each of the first two monthly periods of each quarterly period.

6473. The amount of the prepayment shall constitute a credit against the amount of the taxes due and payable for the quarterly period in which the prepayment became due.

6474. In determining whether a person's estimated measure of tax liability averages seventeen thousand dollars (\$17,000) or more per month, the board may consider tax returns filed pursuant to this part as well as any information in the board's possession or which may come into its possession.

6476. Any person required to make a prepayment pursuant to Section 6471 who fails to make a timely prepayment but makes such prepayment before the last day of the monthly period following the quarterly period in which the prepayment became due, shall also pay a penalty of 6 percent of the amount of prepayment.

6477. Any person required to make a prepayment pursuant to Section 6471 who fails to make a prepayment before the last day of the monthly period following the quarterly period in which the prepayment became due and who files a timely return and payment for the quarterly period in which the prepayment became due shall pay a penalty of 6 percent of

the amount equal to 90 percent of the tax liability for each of the monthly periods during that quarterly period for which a required prepayment was not made.

6478. (a) If a failure to make a prepayment as described in Section 6477 is due to negligence or intentional disregard of this part or authorized rules and regulations, the penalty shall be 10 percent instead of 6 percent.

(b) If any part of a deficiency in prepayment is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 percent of the deficiency shall be paid.

(c) The provisions of this section shall not apply to amounts subject to the provisions of Sections 6484, 6485, 6511, 6514, and 6591.

6479. Notification by the board, provided for in Section 6471, may be served personally or by mail; if by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the retailer or person storing, using, or consuming tangible personal property at his address as it appears in the records of the board, but the service shall be deemed complete at the time of the deposit of the notice in the mail without extension of time for any reason.

SEC. 13. Section 6591.5 of said code is repealed.

SEC. 14. Section 6815 is added to said code, to read:

6815. If at the time a business is discontinued the board holds security pursuant to Section 6701 in the form of cash, government bonds, or insured deposits in banks or savings and loan institutions, such security when applied to the account of the taxpayer shall be deemed to be a payment on account of any liability of the taxpayer to the board on the date the business is discontinued.

SEC. 15. Section 8707 of said code is amended to read:

8707. Subsequent to the revocation of the permit of a user the board shall reinstate the permit when the user pays the amount of excise tax determined, together with interest and penalties, fully complies with the provisions of this part, and pays a fee of fifteen dollars (\$15) to the board for reinstatement. The fee shall not be subject to refund except as provided in Section 9151.

SEC. 16. Section 8714 of said code is amended to read:

8714. Whenever any vendor fails to comply with any provision of this part or any rule or regulation of the board prescribed and adopted under this part, relating to fuel vendors, the board upon hearing, after giving the vendor at least 10 days' notice in writing specifying the time and place of hearing and requiring him to show cause why his permit should not be revoked, may revoke or suspend the permit held by him. The board shall give to the person written notice of the suspension or revocation of his permit. The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The board shall not issue a new permit to a vendor whose permit has been revoked or



reinstate the permit of a vendor whose permit has been suspended or revoked unless it is satisfied that he will comply with the provisions of this part and the rules and regulations of the board, and the vendor pays to the board a fee of fifteen dollars (\$15) for the reinstatement or issuance of a permit. The fee shall not be subject to refund except as provided in Section 9151.

SEC. 17. Section 9702 of said code is repealed.

SEC. 18. Section 9703 of said code is amended to read:

9703. Upon the receipt of the application, the board shall issue to the applicant a license to transport for compensation or hire persons or property upon any public highway within this state. The board may refuse to issue a license to any person to whom a license was previously issued and subsequently revoked for a violation of this part.

SEC. 19. Section 9706 of said code is amended to read:

9706. Every license issued is valid until canceled or revoked by the board.

SEC. 20. Section 9776 of said code is amended to read:

9776. Subsequent to the revocation of the license of an operator the board shall reinstate the license when the operator pays the amount of license tax determined together with interest and penalties, fully complies with the provisions of this part, and pays a fee of fifteen dollars (\$15) to the board for reinstatement. The fee shall not be subject to refund except as provided in Section 10251.

SEC. 21. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, this act shall not become operative until July 1, 1966, but any notice required by this act may be given any time after the effective date of this act.

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## CHAPTER 6

### *An act to amend Section 23754 of the Education Code, relating to state colleges.*

[Approved by Governor April 26, 1966. Filed with  
Secretary of State April 26, 1966.]

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

SECTION 1. Section 23754 of the Education Code is amended to read:

23754. Except as otherwise specially provided, an admission fee and rate of tuition fixed by the trustees shall be required of each nonresident student. The rate of tuition to be paid by each nonresident student shall not be less than three hundred sixty dollars (\$360) per year, except that the rate of tuition to be paid by each nonresident student who is a citizen

and resident of a foreign country shall be two hundred fifty-five dollars (\$255) per year.

No admission fee or tuition fee shall be required of any student who is a citizen and resident of a foreign country and who attends a state college under an agreement entered into by a governmental agency formed under the Constitution or laws of this state or a nonprofit corporation or organization so formed, with a similar agency, or corporation or association, domiciled in and organized under the laws of a foreign country, where a principal purpose of the agreement is to encourage the exchange of students with the view of enhancing international good will and understanding. The trustees shall, in each instance, determine whether the conditions for such exemption from fees exist and may prescribe appropriate procedures to be complied with in obtaining the exemption.

No admission fee or tuition fee shall be required of any non-resident student who is the child or spouse of an academic or administrative employee of the California State Colleges.

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## CHAPTER 7

*An act to amend Sections 6006 and 6010 of, and to add Section 6094.1 to, the Revenue and Taxation Code, relating to the Sales and Use Tax Law, to take effect immediately, tax levy.*

[Approved by Governor April 26, 1966 Filed with  
Secretary of State April 28, 1966 ]

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

SECTION 1. Section 6006 of the Revenue and Taxation Code is amended to read:

6006. "Sale" means and includes:

(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession," includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

(b) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(c) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.

(d) The furnishing, preparing, or serving for a consideration of food, meals, or drinks.

(e) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(f) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(g) Any lease of tangible personal property in any manner or by any means whatsoever, for a consideration, except a lease of:

(1) Motion picture, including television, films and tapes.

(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.

(3) Household furnishings with a lease of the living quarters in which they are to be used.

(4) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor or transferor has paid sales tax reimbursement pursuant to Section 6052 or has paid use tax measured by the purchase price of the property. For purposes hereof, transferor shall mean the following:

(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.

(B) A decedent from whom the lessor acquired the property by will or the laws of succession.

SEC. 2. Section 6010 of said code is amended to read:

6010. "Purchase" means and includes:

(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession," includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

(b) When performed outside this state or when the customer gives a resale certificate pursuant to Article 3 of Chapter 2 of this part, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(c) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(d) A transfer for a consideration of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(e) Any lease of tangible personal property in any manner or by any means whatsoever, for a consideration, except a lease of:

(1) Motion picture, including television, films and tapes.

(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.

(3) Household furnishings with a lease of the living quarters in which they are to be used.

(4) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor or transferor has paid sales tax reimbursement pursuant to Section 6052 or has paid use tax measured by the purchase price of the property. For purposes hereof, transferor shall mean the following:

(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.

(B) A decedent from whom the lessor acquired the property by will or the laws of succession.

SEC. 3. Section 6094.1 is added to said code, to read:

6094.1. If a purchaser acquires property in a transaction described in subdivision (a) of Section 6006.5 and leases such property, the purchaser may elect at the time the property is first leased by him, after the effective date of this section, to pay use tax measured by the purchase price of the property. Purchaser shall include a transferee who acquires property in a transaction which qualifies under the provisions of subdivision (b) of Section 6006.5 and, for purposes hereof, the purchase price of the transferee shall be the same as that paid by the original purchaser.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, its provisions shall be operative as to all transactions occurring after July 1, 1965, except that retroactive operation shall not effect the state's right to any tax which vested prior to the effective date of this act.

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CONCURRENT RESOLUTIONS

REGULAR SESSION

1966

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# CONCURRENT RESOLUTIONS

ADOPTED AT THE 1966 REGULAR SESSION

OF THE LEGISLATURE

## CHAPTER 1

*Assembly Concurrent Resolution No. 1—Approving certain amendments to the Charter of the City of San Diego, a municipal corporation in the County of San Diego, State of California, voted for and ratified by the qualified electors of said city at the municipal primary election held on September 21, 1965.*

[Filed with Secretary of State February 10, 1966 ]

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of certain amendments hereinafter set forth to the Charter of the City of San Diego, a municipal corporation in the County of San Diego, State of California, as set out in the certificate of the Mayor and City Clerk of the said city as follows, to wit:

State of California }  
County of San Diego } ss.

We, the undersigned, Frank E. Curran, Mayor of The City of San Diego, and Phillip Acker, City Clerk of said City, do hereby certify and declare as follows:

The City of San Diego, a municipal corporation, is now and since the year 1931 has been organized and existing under and pursuant to the provisions of a freeholders' charter adopted in accordance with and by virtue of the provisions of Section 8, Article XI of the Constitution of the State of California.

That pursuant to and in accordance with the provisions of Section 8, Article XI of the Constitution of the State of California, the City Council of said City, being the legislative body thereof, on its own motion proposed to the qualified electors of The City of San Diego certain amendments to the Charter of the said City, which amendments were designated as Propositions 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11, and submitted said propositions to the qualified electors of The City of San Diego at the municipal primary election held on September 21, 1965.

That said proposed charter amendments were published and advertised in the San Diego Union, a daily newspaper of general circulation published in the City of San Diego, and the

official newspaper of said City, and in each edition thereof during the day of publication, to wit: July 30, 1965.

That copies of said proposed charter amendments were printed in convenient pamphlet form and in type of not less than ten point, and were mailed to each of the qualified electors of said City, and that until the date fixed for the election herein described, a notice was advertised and published in the San Diego Union, a daily newspaper of general circulation published in the City of San Diego, and the official newspaper of said City, that copies of said proposed charter amendments could be had upon application therefor at the office of the City Clerk of The City of San Diego.

That such copies of said proposed charter amendments could be had upon application therefor at the office of the City Clerk of said City until the date fixed for said election.

That said proposed amendments were submitted to the qualified electors of said City at said municipal primary election held in said City.

That at said election on the said proposed amendments to the Charter of The City of San Diego, a majority of the qualified voters of the City voting on said proposed amendments voted in favor of Propositions 5, 6, 7, 8 and 11, and said proposed amendments were ratified by a majority of the qualified electors of said City voting thereon.

That all of said proceedings were duly and regularly had and taken in accordance with said Section 8 of Article XI of the Constitution of the State of California and the Charter of The City of San Diego and the laws of the State of California.

That as to the amendments of the Charter of the City of San Diego hereinafter set forth, this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

That the proposed amendments to the Charter of the City of San Diego, which were so ratified by a majority of the electors of said City, are in words and figures as follows:

#### PROPOSITION 5

Repeal Section 119 of Article VIII of the Charter of The City of San Diego, which reads as follows:

“Section 119. Application Register. There shall be kept in the office of the Civil Service Commission an application register, in which shall be entered the names and addresses and the order and date of application of all applicants for Civil Service tests and the offices or employments which they seek. All applications shall be upon forms prescribed by the Commission.”



## PROPOSITION 6

Amend Section 122 of Article VIII of the Charter of The City of San Diego to read as follows:

“Section 122. Appointments. When any position in the Classified Service is to be filled, the appointing authority shall notify the Personnel Director, who shall promptly certify to such authority the names and addresses of the eligibles on the list for the class or grade to which the position belongs. The number of eligibles certified shall be determined by the Civil Service Commission and published in its Rules. The appointing authority shall appoint to such position one of the persons whose names are so certified. When no eligible list for the position exists, or when the eligible list has become exhausted, and until a new list can be created, a name may be certified from the eligible list most nearly appropriate to the position to be filled.”

## PROPOSITION 7

Repeal Sections 140 and 140a of Article VIII of the Charter of The City of San Diego, which read as follows:

“Section 140. Present Employees Retained. All officers and employees in the classified or unclassified service of the City at the time this Charter becomes effective as provided in Section 212 of Article XIV hereof, shall automatically retain their positions and shall thereafter be superseded, replaced, discharged, reduced in rank, promoted, transferred, or retired, only in accordance with the provisions of this Charter. Employees of any public utility taken over by the City, who are in the service of such utility at the time of its acquisition, shall be deemed to hold their positions as though appointed under the Civil Service provisions of this Charter; but vacancies thereafter occurring in such service shall be filled from eligible lists in the manner herein provided.”

“Section 140a. Status of Present Employees. All officers, and employees who at the time of the taking effect of this Section would be included in the classified service and who shall have been continuously in the service of the City for a period of six (6) months prior to the effective date of this section, shall automatically retain their positions as if duly appointed thereto as of the date of their original appointment in accordance with the provisions of this Charter and the Civil Service Rules, and shall be deemed to have the necessary qualifications required by the provisions thereof; and thereafter be superseded, replaced, discharged, reduced in rank, promoted, transferred or retired only in accordance with the provisions of this Charter. All officers and employees who at the time of the taking effect of this section would be included in the classified service, but who have been in the service of the City for a period of less than six (6) months, shall be

deemed to be serving under probation and be subject to the same regulations as other officers and employees serving under probation as provided by the Civil Service Rules."

#### PROPOSITION 8

Amend Section 92 of Article VII of the Charter of The City of San Diego to read as follows:

"Section 92. Borrowing Money on Short Term Notes. Bonds or notes may be issued in anticipation of the collection of special assessments, and bonds, notes, or registered warrants on the treasury may be issued in anticipation of the collection of taxes, as authorized by the City Council by resolution and shall not be deemed the creation of debt within the meaning of Section 90 of this Article. Bonds, notes, or registered warrants on the treasury issued in anticipation of the collection of the taxes of any fiscal year may be issued during each fiscal year and each such bond, note, or warrant shall specify that it is payable out of the taxes of the fiscal year in which issued, and before the close of such year, and shall not bear a higher rate of interest than five (5) per cent per annum, and the total amount of such bonds, notes or warrants, authorized and issued in any fiscal year shall not, in the aggregate, be more than twenty-five (25) per cent of the total appropriations of the City for such year. Nothing herein contained shall be construed to authorize the incurring of an obligation against the municipality in excess of that authorized to be incurred by the Constitution of the State of California."

#### PROPOSITION 11

Repeal Section 95 of Article VII of the Charter of The City of San Diego, which reads as follows:

"Section 95 Preference in Accepting Bids. Any board, officer, commission or department empowered by this Charter to award contracts for goods, wares, merchandise, stores, supplies, drugs, subsistence, materials, equipment, tools, or other products of industry or manufacture, the cost or expense of which is to be paid by the City or any board, office, commission or department thereof, may award a contract for the purchase, sale and furnishing thereof to a regular bidder other than the lowest responsible bidder therefor, when, in the judgment of such awarding board, officer, commission or department, the best interests of the City and the public policy relating to the general welfare will be subserved thereby, and when the bidder specifies in his bid the following terms and conditions to be observed in the execution of the contract and he furnishes additional security for the fulfillment thereof, to wit:

That the articles, products or materials are to be in whole or in part manufactured, made or produced in industries es-

tablished in The City of San Diego or in the County of San Diego, specifying the name and location thereof; or that the articles, products or materials are regularly stocked, handled and sold by business establishments located in The City of San Diego or in the County of San Diego, specifying the name and location of such establishments.

Provided, however, that the bid of such higher bidder does not in amount or price exceed by five per cent (5%) that of the lowest responsible bidder for such contract.''

And we further certify that we have compared the foregoing proposed and ratified amendments to the Charter of The City of San Diego with the original proposal submitting the same to the electors of said City, and find that the foregoing is a full, true and exact copy thereof.

In witness whereof, we have hereunto set our hands and caused the seal of said The City of San Diego to be affixed hereto this 22nd day of November, 1965.

(SEAL)

FRANK E. CURRAN  
Mayor of The City of  
San Diego, California

PHILLIP ACKER  
City Clerk of The City of  
San Diego, California

WHEREAS, The proposed charter amendments as ratified as hereinabove set forth have been and now are duly presented and submitted to the Legislature of the State of California for approval or rejection, as a whole without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein,* That the amendments to the Charter of the City of San Diego, as proposed to and adopted and ratified by the electors of the city, as hereinbefore fully set forth, be and the same are hereby approved as a whole, without alteration or amendment, for and as amendments to and as part of the Charter of the City of San Diego.

## CHAPTER 2

*Assembly Concurrent Resolution No. 2—Approving an amendment to the Charter of the City of San Diego, a municipal corporation in the County of San Diego, State of California, voted for and ratified by the qualified electors of said city at the general municipal election held therein on November 2, 1965.*

[Filed with Secretary of State February 10, 1966.]

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of an amendment herein-after set forth to the Charter of The City of San Diego, a municipal corporation in the County of San Diego, State of California, as set out in the certificate of the Mayor and City Clerk of the said city as follows, to wit:

State of California }  
County of San Diego } ss.

We, the undersigned, Frank E. Curran, Mayor of The City of San Diego, and Phillip Acker, City Clerk of said City, do hereby certify and declare as follows:

The City of San Diego, a municipal corporation, is now and since the year 1931 has been organized and existing under and pursuant to the provisions of a freeholders' charter adopted in accordance with and by virtue of the provisions of Section 8, Article XI of the Constitution of the State of California.

That pursuant to and in accordance with the provisions of Section 8, Article XI of the Constitution of the State of California, the City Council of said City, being the legislative body thereof, on its own motion proposed to the qualified electors of The City of San Diego an amendment to the Charter of the said City, which amendment was designated as Proposition 1, and submitted said proposition to the qualified electors of The City of San Diego at the general municipal election held on November 2, 1965.

That said proposed charter amendment was published and advertised in the San Diego Union, a daily newspaper of general circulation published in the City of San Diego, and the official newspaper of said City, and in each edition thereof during the day of publication, to wit: September 9, 1965.

That copies of said proposed charter amendment were printed in convenient pamphlet form and in type of not less than ten point, and were mailed to each of the qualified electors of said City, and that until the date fixed for the election herein described, a notice was advertised and published in the San Diego Union, a daily newspaper of general circulation published in the City of San Diego, and the official newspaper of said City, that copies of said proposed charter amendment

could be had upon application therefor at the office of the City Clerk of The City of San Diego.

That such copies of said proposed charter amendment could be had upon application therefor at the office of the City Clerk of said City until the date fixed for said election.

That said proposed amendment was submitted to the qualified electors of said City at said general municipal election held in said City.

That at said election on the said proposed amendment to the Charter of The City of San Diego, a majority of the qualified voters of the City voting on said proposed amendment voted in favor of Proposition 1, and said proposed amendment was ratified by a majority of the qualified electors of said City voting thereon.

That all of said proceedings were duly and regularly had and taken in accordance with said Section 8 of Article XI of the Constitution of the State of California and the Charter of The City of San Diego and the laws of the State of California.

That as to the amendment to the Charter of The City of San Diego hereinafter set forth, this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

That the proposed amendment to the Charter of The City of San Diego, which was so ratified by a majority of the electors of said City, is in words and figures as follows:

#### PROPOSITION 1

Add new Section 99.1 to the Charter of The City of San Diego to read as follows:

“Section 99.1. Sports Stadium. For the purpose of acquiring, constructing and completing on a site in Mission Valley not to exceed 200 acres and lying westerly of Murphy Canyon Road, northerly of Highway 80 and southerly of Friars Road, and maintaining and operating thereon a coliseum, stadium, sports arena, sports pavilion or other building, or combination thereof, and facilities and appurtenances necessary or convenient therefor, for holding sports events, athletic contests, contests of skill, exhibitions and spectacles and other public meetings, the City may, in addition to other legal methods, enter into contracts, leases or other agreements not to exceed fifty years with any other public agency or agencies, and the provisions of Sections 80 and 99 of this Charter shall not be applicable thereto.”

And we further certify that we have compared the foregoing proposed and ratified amendment to the Charter of The City of San Diego with the original proposal submitting the same to the electors of said City, and find that the foregoing is a full, true and exact copy thereof.

In witness whereof, we have hereunto set our hands and caused the seal of said The City of San Diego to be affixed hereto this 22nd day of November, 1965.

(SEAL)

FRANK E. CURRAN  
Mayor of The City of  
San Diego, California

PHILLIP ACKER  
City Clerk of The City of  
San Diego, California

WHEREAS, The proposed charter amendment as ratified as hereinabove set forth has been and now is duly presented and submitted to the Legislature of the State of California for approval or rejection, as a whole without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, That the amendment to the Charter of the City of San Diego, as proposed to and adopted and ratified by the electors of the city, as hereinbefore fully set forth, be and the same is hereby approved as a whole, without alteration or amendment, for and as an amendment to and as part of the Charter of the City of San Diego.*

### CHAPTER 3

*Assembly Concurrent Resolution No. 3—Approving the Charter of the City of Huntington Beach, County of Orange, State of California, ratified by the qualified electors of the city at a special election held therein on the 11th day of January, 1966.*

[Filed with Secretary of State February 10, 1966.]

WHEREAS, Proceedings have been taken and had for the proposal, adoption and ratification of the Charter of the City of Huntington Beach, a municipal corporation in the County of Orange, State of California, as hereinafter set forth in the certificate of the mayor and city clerk of the city, as follows:

Certificate of Ratification by Electors of the City of  
Huntington Beach, California, of City Charter

State of California	} ss.
County of Orange	
City of Huntington Beach	

We, the undersigned, Donald D. Shipley, Mayor of the City of Huntington Beach, State of California, and Paul C. Jones, City Clerk of said City, do hereby certify and declare as follows:

That said City of Huntington Beach, in the County of Orange, State of California, is now, and was at all times herein mentioned, a city containing a population of more than fifty thousand inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States;

That the legislative body of said city, namely, the City Council thereof, did, in accordance with the provisions of Section 8, Article XI, of the Constitution of the State of California, cause to be framed a proposed charter for its own government and duly and regularly submitted to the qualified electors of the City of Huntington Beach a proposition for the adoption of the proposed charter of the City of Huntington Beach at a special municipal election called and held for that purpose in said city on the 11th day of January, 1966;

That such proposed charter was published and advertised in accordance with the provisions of Section 8 of Article XI of the Constitution of the State of California on the 25th day of November, 1965, in the Huntington Beach News, a weekly newspaper of general circulation printed and published in the City of Huntington Beach, the official newspaper of said City of Huntington Beach.

That copies of said proposed charter were printed in convenient pamphlet form and in type not less than 10-point as required by law, and copies thereof were mailed to each of the qualified electors of said City of Huntington Beach within the time and manner required by law.

And until the date fixed for the election, January 11, 1966, as hereinafter set forth, there was published in said Huntington Beach News an advertisement stating that copies of said proposed charter could be had, upon application therefor, at the office of the City Clerk of said City of Huntington Beach.

That copies of said pamphlet containing said proposed charter could be had upon application therefor at the office of the City Clerk of said City at all times, to and including January 11, 1966, the date fixed for said election, all as required by said Section 8 of Article XI of the Constitution of the State of California.

That in accordance with the provisions, and in the manner provided by law, the said special municipal election was duly and regularly held in said city, after due notice given and published, on January 11, 1966, which day was not less than forty (40), nor more than sixty (60) days after the completion of the publication and advertisement of the aforementioned proposed charter in the Huntington Beach News, the official newspaper of said City of Huntington Beach.

That, in accordance with law, the City Clerk, of the City of Huntington Beach, County of Orange, State of California, did duly and regularly canvass the returns of said election and on the 17th day of January, 1966, did certify to the City Council of the City of Huntington Beach the result of such canvass; that said City Council on the 17th day of January, 1966, did duly find, determine and declare the result of said special election as determined from the canvass of the returns thereof aforesaid to be that a majority of the qualified electors of said city voting on said proposed charter had voted for, ratified and adopted said charter.

That said charter so prepared, proposed, submitted, ratified and adopted is in the words and figures following:

#### THE CHARTER OF THE CITY OF HUNTINGTON BEACH

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## CHARTER

We, the people of the City of Huntington Beach, State of California, do ordain and establish this Charter as the organic law of said City under the Constitution of said State.

## Article I Name of City

Section 100. Name. The municipal corporation now existing and known as the City of Huntington Beach shall remain and continue to exist as a municipal corporation under its present name of "City of Huntington Beach".

Section 101. Seal. The City shall have an official seal which may be changed from time to time by ordinance. The present official seal shall continue to be the official seal of the City until changed in the manner stated

## Article II Boundaries

Section 200. Boundaries. The boundaries of the City shall be the boundaries as established at the time this Charter takes effect, and as such boundaries may be changed thereafter from time to time in the manner authorized by law.

## Article III Succession

Section 300 Rights and Liabilities The City of Huntington Beach shall continue to own, possess and control all rights and property of every kind and nature owned, possessed or controlled by it at the time this Charter takes effect and shall continue to be subject to all its debts, obligations, liabilities and contracts.

Section 301. Ordinances Continued in Effect. All lawful ordinances, resolutions, rules and regulations, and portions

thereof, in force at the time this Charter takes effect and not in conflict or inconsistent herewith, are hereby continued in force until the same shall have been duly repealed, amended, changed or superseded by proper authority.

Section 302. Rights of Officers and Employees Preserved. Nothing in this Charter contained, unless otherwise specifically provided therein, shall affect or impair the personnel, pension or retirement rights or privileges of officers or employees of the City, or of any office, department or agency thereof, existing at the time this Charter takes effect.

Section 303. Continuance of Present Officers and Employees. The present officers and employees of the City shall continue without interruption to perform the duties of their respective offices and employments upon the same terms and conditions and for the compensation provided by the existing ordinances, resolutions, rules or laws, but subject to such removal, amendment and control as is provided or permitted in this Charter, and, as to offices which are changed, abolished or superseded by this Charter, until the election or appointment and qualification of their respective successors under this Charter. Each elective officer whose office is made appointive under this Charter shall continue to hold such office subject to the provisions of this Charter, but his retirement status, rights or privileges shall not be deemed to be changed, altered or affected in any way by the adoption of this Charter so long as he holds such office.

Section 304. Continuance of Contracts and Public Improvements. All contracts entered into by the City or for its benefit prior to the effective date of this Charter and then in effect, shall continue in full force and effect according to their terms. Public improvements for which proceedings have been instituted under laws existing at the time this Charter takes effect, in the discretion of the Council, may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws or may be continued or completed under this Charter.

Section 305. Pending Actions and Proceedings. No action or proceeding, civil or criminal, pending at the time this Charter takes effect, brought by or against the City or any officer, office, department or agency thereof, shall be affected or abated by the adoption of this Charter or by anything herein contained but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any officer, office, department or agency a party thereto, may be assigned or transferred by or under this Charter to another officer, office, department or agency, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter.

Section 306. Effective Date of Charter. This Charter shall take effect upon its approval by the Legislature after it

shall have been ratified by the qualified voters of the City in the manner set forth in the Constitution of the State.

#### Article IV Powers of City

Section 400. Powers of City. The City shall have the power to make and enforce all laws and regulations in respect to municipal affairs, subject only to such restrictions and limitations as may be provided in this Charter or in the Constitution of the State of California. It shall also have the power to exercise any and all rights, privileges and powers, including proprietary powers, heretofore or hereafter established, granted or prescribed by any law of the State, by this Charter, or by other lawful authority, or which a municipal corporation might or could exercise under the Constitution of the State of California, subject to such restrictions and limitations as may be contained in this Charter.

The enumeration in this Charter of any particular power shall not be held to be exclusive of, or any limitation upon, the generality of the foregoing provisions.

Section 401. Procedures. The City shall have the power to and may act pursuant to any procedure established by any law of the State, unless a different procedure is required by this Charter.

#### Article V City Council and Elective Officers

Section 500. City Council, Attorney, Clerk and Treasurer. Terms. The elective officers of the City shall consist of a City Council of seven members, a City Clerk, a City Treasurer and a City Attorney, all to be elected from the City at large at the times and in the manner provided in this Charter and who shall serve for terms of four years and until their respective successors qualify.

Subject to the provisions of this Charter, the five members of the City Council in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and until their successors are elected and qualified, and shall constitute the City Council until two additional members are elected as hereinafter provided. Four members of the City Council shall be elected at the general municipal election held in April, 1966, and each fourth year thereafter. Three members of the City Council shall be elected at the general municipal election held in April, 1968, and each fourth year thereafter.

In the event this Charter shall not take effect in time to elect four members of the City Council at the general municipal election held in April, 1966, and only two members of the City Council are then elected, a special election shall be called and held not less than 60 nor more than 90 days after the effective date of this Charter to elect two additional mem-

bers of the City Council for the remainder of the terms expiring in April, 1970.

Subject to the provisions of this Charter, the City Clerk, City Treasurer and City Attorney in office at the time this Charter takes effect shall continue in office until the expiration of their respective terms and the qualification of their successors. A City Clerk and City Treasurer shall be elected at the general municipal election held in April, 1968, and each fourth year thereafter. A City Attorney shall be elected in April, 1966, and each fourth year thereafter.

The term of each member of the City Council, the City Clerk, the City Treasurer and the City Attorney shall commence on the first Tuesday following his election. Ties in voting among candidates for office shall be settled by the casting of lots.

Section 501. Eligibility. No person shall be eligible to hold office as a member of the City Council, City Attorney, City Clerk or City Treasurer unless he is and shall have been a resident and registered voter of the City for at least two years next preceding the date of his election or appointment.

Section 502. Compensation. The members of the City Council including the Mayor shall receive as compensation for their services as such a monthly salary in the sum of One Hundred Seventy-Five Dollars per month. In addition, each member of the City Council shall receive reimbursement on order of the City Council for Council authorized traveling and other expenses when on official duty upon submission of itemized expense account therefor. In addition, members shall receive such reasonable and adequate amount as may be established by ordinance, which amount shall be deemed to be reimbursement to them of other routine and ordinary expenses, losses and costs imposed upon them by virtue of their serving as City Councilmen.

The City Clerk and City Treasurer shall each receive a compensation for their services as such to be fixed by ordinance, which compensation for such services shall not be increased or diminished after their election or during their respective terms of office.

Section 503. Vacancies. A vacancy in the City Council, or City Clerk, City Treasurer or City Attorney, from whatever cause arising, shall be filled by appointment by the City Council, such appointee to hold office until the first Tuesday following the next general municipal election and until his successor qualifies. At the next general municipal election following any vacancy, a successor shall be elected to serve for the remainder of any unexpired term, if any. As used in this paragraph, the next general municipal election shall mean the next such election at which it is possible to place the matter on the ballot and elect a successor.

If a member of the City Council absents himself from all regular meetings of the City Council for a period of thirty

days consecutively from and after the last regular City Council meeting attended by such member, unless by permission of the City Council expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be an elector of the City, his office shall become vacant. The City Council shall declare the existence of any such vacancy.

In the event it shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, the City Council shall forthwith cause an election to be held to fill such vacancy for the remainder of the unexpired term.

Section 504. Presiding Officer. On the first Tuesday following any general or special municipal election at which any Councilman is elected, and at any time when there is a vacancy in the office of Mayor, the City Council shall meet and shall elect one of its members as its presiding officer, who shall have the title of Mayor. The Mayor may make and second motions and shall have a voice and vote in all its proceedings. He shall be the official head of the City for all ceremonial purposes. He shall have the primary but not the exclusive responsibility for interpreting the policies, programs and needs of the City government to the people, and as occasion requires, he may inform the people of any major change in policy or program. He shall perform such other duties consistent with his office as may be prescribed by this Charter or as may be imposed by the City Council. The Mayor shall serve in such capacity at the pleasure of the City Council.

The City Council shall also designate one of its members as Mayor Pro Tempore, who shall serve in such capacity at the pleasure of the City Council. The Mayor Pro Tempore shall perform the duties of the Mayor during his absence or disability.

Section 505. Powers Vested in City Council. All powers of the City shall be vested in the City Council except as otherwise provided in this Charter.

Section 506. Regular Meetings. The City Council shall hold regular meetings at least twice each month at such times as it shall fix by ordinance or resolution and may adjourn or re-adjourn any regular meeting to a date and hour certain which shall be specified in the order of adjournment and when so adjourned each adjourned meeting shall be a regular meeting for all purposes. If the hour to which a meeting is adjourned is not stated in the order of adjournment, such meeting shall be held at the hour for holding regular meetings. If at any time any regular meeting falls on a holiday such regular meeting shall be held on the next business day.

Section 507. Special Meetings. A special meeting may be called at any time by the Mayor, or by a majority of the members of the City Council, by written notice to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or by mail at least twenty-four hours before the time of such meeting as

specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting. Such written notice may be dispensed with as to any person entitled thereto who, at or prior to the time the meeting convenes, files with the City Clerk a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any person who is actually present at the meeting at the time it convenes.

Section 508. Place of Meetings. All meetings shall be held in the Council Chambers of the City or in such place within the City to which any such meeting may be adjourned, and shall be open to the public. If, by reason of fire, flood or other emergency, it shall be unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place within the City as is designated by the Mayor, or, if he should fail to act, by a majority of the members of the City Council.

Section 509. Quorum. Proceedings. A majority of the members of the City Council shall constitute a quorum to do business but a lesser number may adjourn from time to time. In the absence of all the members of the City Council from any regular meeting or adjourned regular meeting, the City Clerk may declare the same adjourned to a stated day and hour. The City Clerk shall cause written notice of a meeting adjourned by less than a quorum or by the City Clerk to be delivered personally or by mail to each councilman at least twenty-four hours before the time to which the meeting is adjourned, or such notice may be dispensed with in the same manner as specified in this Charter for dispensing with notice of special meetings of the City Council. The City Council shall judge the qualification of its members as set forth by the Charter. It shall judge all election returns. It may establish rules for the conduct of its proceedings and evict or prosecute any member or other person for disorderly conduct at any of its meetings.

Each member of the City Council shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the City Council. The City Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas shall be issued in the name of the City and be attested by the City Clerk. They shall be served and complied with in the same manner as subpoenas in civil actions. Disobedience of such subpoenas, or the refusal to testify (upon other than constitutional grounds), shall constitute a misdemeanor, and shall be punishable in the same manner as violations of this Charter are punishable.

Upon adoption of any ordinance, resolution, or order for payment of money, or upon the demand of any member, the City Clerk shall call the roll and shall cause the ayes and



noes taken on the question to be entered in the minutes of the meeting.

Section 510. Citizen Participation. All regular and special meetings of the City Council shall be open and public and all persons shall be permitted to attend such meetings, except that the provisions of this Section shall not apply to executive sessions to consider the appointment, employment, discipline or dismissal of a public officer or employee or to hear complaints or charges brought against any such officer or employee. No resident or property owner shall be denied the right to be heard by the City Council, but such right shall be subject to such reasonable rules and regulations as may be authorized or adopted by ordinance. A discussion with the City Attorney relating to pending or threatened litigation shall not be considered to be a regular or special meeting within the meaning of this section.

Section 511. Adoption of Ordinances and Resolutions. With the sole exception of emergency ordinances which take effect upon adoption, referred to in this Article, no ordinance shall be adopted by the City Council on the day of its introduction, nor within five days thereafter nor at any time other than at a regular or adjourned regular meeting. At the time of its introduction an ordinance shall become a part of the proceedings of such meeting in the custody of the City Clerk. At the time of introduction or adoption of an ordinance or resolution it shall be read in full, unless after the reading of the title thereof, the further reading thereof is waived by unanimous consent of the Councilmen present, except that emergency ordinances shall be read in full. In the event that any ordinance is altered after its introduction, the same shall not be finally adopted except at a regular or adjourned regular meeting held not less than five days after the date upon which such ordinance was so altered. The correction of typographical or clerical errors shall not constitute the making of an alteration within the meaning of the foregoing sentence.

No order for the payment of money shall be adopted or made at any other than a regular or adjourned regular meeting.

Unless a higher vote is required by other provisions of this Charter, the affirmative votes of at least four members of the City Council shall be required for the enactment of any ordinance or resolution, or for the making or approving of any order for the payment of money. All ordinances and resolutions shall be signed by the Mayor and attested by the City Clerk.

Any ordinance declared by the City Council to be necessary as an emergency measure for the immediate preservation of the public peace, health or safety, and containing a statement of the reasons for its urgency, may be introduced and adopted at one and the same meeting if passed by at least five affirmative votes.

Section 512. Ordinances. Enactment. Publication. In addition to such other acts of the City Council as are required

by this Charter to be taken by ordinance, every act of the City Council establishing a fine or other penalty, or granting a franchise, shall be by ordinance.

The enacting clause of all ordinances shall be substantially as follows: "The City Council of the City of Huntington Beach does ordain as follows:".

The City Clerk shall cause each ordinance to be published at least once in the official newspaper within fifteen days after its adoption. In the event the publication of any ordinance shall not be made within said period of fifteen days hereinabove designated, said ordinance shall not be rendered null and void.

Section 513. Codification of Ordinances. Any or all ordinances of the City which have been enacted and published in the manner required at the time of their adoption, and which have not been repealed, may be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code, and such code may be adopted by reference, with the same effect as an ordinance, by the passage of an ordinance for such purpose. Such code need not be published in the manner required for other ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the City Clerk prior to the adoption thereof. Ordinances codified shall be repealed as of the effective date of the code. Amendments to the code shall be enacted by ordinance.

Detailed regulations pertaining to any subject, such as the construction of buildings, plumbing and wiring, and fire regulations, arranged as a comprehensive code, may likewise be adopted by reference in the manner provided in this Section. Maps, charts and diagrams also may be adopted by reference in the same manner.

Section 514. Ordinances. When Effective. Every ordinance shall become effective thirty days from and after the date of its adoption, except the following, which shall take effect upon adoption:

- (a) An ordinance calling or otherwise relating to an election;
- (b) An improvement proceeding ordinance adopted under some special law or procedural ordinance relating thereto;
- (c) An ordinance declaring the amount of money necessary to be raised by taxation, or fixing the rate of property taxation, or levying the annual tax upon property;
- (d) An emergency ordinance adopted in the manner provided in this Article.

Section 515. Ordinances. Violation. Penalty. A violation of any ordinance of the City shall constitute a misdemeanor and may be prosecuted in the name of the People of the State of California and/or may be redressed by civil action. The maximum fine or penalty for any violation of a City ordinance shall be the sum of Five Hundred Dollars, or a term of imprisonment for a period not exceeding six months, or both. The City Council may provide by ordinance that persons im-

prisoned in the City Jail for violation of law or ordinance may be compelled to labor on public works.

Section 516. Ordinances. Amendment. The amendment of any section or subsection of an ordinance may be accomplished solely by the re-enactment of such section or subsection at length, as amended.

Section 517. Publishing of Legal Notices. The City Council shall contract for the publication of all legal notices, ordinances and other matter required to be published in a newspaper of general circulation in the City. Each such contract shall cover a period of not less than one nor more than three years. In the event there is more than one newspaper of general circulation published within the City, the contract shall be made only after the publication of a notice inviting bids therefor. In the event there is only one newspaper of general circulation published in the City, then the City Council shall have the power to contract with such newspaper for the printing and publishing of such legal notices or matter without being required to advertise for bids therefor. The newspaper with which any such contract is made shall be the official newspaper for the publication of such notices or other matter for the period of such contract. Any such newspaper of general circulation shall mean a newspaper adjudicated to be a newspaper of general circulation within the city.

In no case shall the contract prices for such publication exceed the customary rates charged by such newspaper for the publication of legal notices of a private character.

In the event there is no newspaper of general circulation published in the City, or in the event no such newspaper will accept such notices or other matter at the rates permitted herein, then all legal notices or other matter may be published by posting copies thereof in at least three public places in the City to be designated by ordinance.

No defect or irregularity in proceedings taken under this Section, or failure to designate an official newspaper, shall invalidate any publication where the same is otherwise in conformity with this Charter or law or ordinance.

Section 518. Contracts. Execution. The City shall not be bound by any contract, except as hereinafter provided, unless the same shall be made in writing, approved by the City Council and signed on behalf of the City by the Mayor and City Clerk or by such other officer or officers as shall be designated by the City Council. Any of said officers shall sign a contract on behalf of the City when directed to do so by the City Council.

By ordinance or resolution the City Council may authorize the City Administrator or other officer to bind the City, with or without a written contract, for the acquisition of equipment, materials, supplies, labor, services or other items included within the budget approved by the City Council, and may impose a monetary limit upon such authority.

The City Council may by ordinance or resolution provide a method for the sale or exchange of personal property not needed in the City Service or not fit for the purpose for which intended, and for the conveyance of title thereto.

Contracts for the sale of the products, commodities or services of any public utility owned, controlled or operated by the City may be made by the manager of such utility or by the head of the department or City Administrator upon forms approved by the City Administrator and at rates fixed by the City Council.

The provisions of this Section shall not apply to the employment of any person by the City at a regular salary.

## Article VI City Administrator

Section 600. City Administrator. There shall be a City Administrator who shall be the chief administrative officer of the City. He shall be appointed by the affirmative vote of at least a majority of the members of the City Council and shall serve at the pleasure of the City Council, provided, however, that he shall not be removed from office except as provided in this Charter. He shall be chosen on the basis of his executive and administrative qualifications, with special reference to his actual experience in, and his knowledge of, accepted practice in respect to the duties of his office as herein set forth.

Section 601. Residence. The City Administrator need not be a resident of the City at the time of his appointment, but he shall establish his residence within the City within ninety days after his appointment, unless such period is extended by the City Council, and thereafter maintain his residence within the City during his tenure of office.

Section 602. Eligibility. No person shall be eligible to receive appointment as City Administrator or Acting City Administrator while serving as a member of the City Council nor within one year after he has ceased to be a member of the City Council.

Section 603. Compensation and Bond. The City Administrator shall be paid a salary commensurate with his responsibilities as chief administrative officer of the City, which salary shall be established by ordinance or resolution. The City Administrator shall furnish a corporate surety bond conditioned upon the faithful performance of his duties in such form and in such amount as may be determined by the City Council; the premium on such bond shall be paid by the City.

Section 604. Powers and Duties. The City Administrator shall be the chief administrative officer and head of the administrative branch of the City Government. Except as otherwise provided in this Charter, he shall be responsible to the City Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities and duties, subject to the provisions

of this Charter, including the personnel provisions thereof, the City Administrator shall have power and be required to:

(a) Appoint, and he may promote, demote, suspend or remove, all department heads, officers and employees of the City except elective officers and those department heads, officers and employees the power of whose appointment is vested by this Charter in the City Council. He may authorize the head of any department or office to appoint or remove subordinates in such department or office. No department head shall be appointed or removed until the City Administrator shall first have reviewed such appointment or removal with the City Council and received its approval for such appointment or removal.

(b) Prepare the budget annually, submit it to the City Council, and be responsible for its administration after its adoption.

(c) Prepare and submit to the City Council as of the end of each fiscal year, a complete report on the finances of the City for the preceding fiscal year, and annually or more frequently, a current report of the principal administrative activities of the City.

(d) Keep the City Council advised of the financial condition and future needs of the City and make such recommendations as may to him seem desirable.

(e) Establish a centralized purchasing system for all City offices, departments and agencies.

(f) Prepare rules and regulations governing the contracting for, purchasing, inspection, storing, inventory, distribution and disposal of all supplies, materials and equipment required by any office, department or agency of the City government and recommend them to the City Council for adoption by ordinance, and administer and enforce the same after adoption.

(g) Supervise the enforcement of the laws of the State pertaining to the City, the provisions of this Charter and the ordinances, franchises and rights of the City.

(h) Subject to policy established by the City Council, exercise control of all administrative offices and departments of the City and of all appointive officers and employees except those directly appointed by the City Council and prescribe such general rules and regulations as he may deem necessary or proper for the general conduct of the administrative offices and departments of the City under his jurisdiction.

(i) Perform such other duties consistent with this Charter as may be required of him by the City Council.

Section 605. Meetings. The City Administrator shall be accorded a seat at all meetings of the City Council and of all boards and commissions and shall be entitled to participate in their deliberations, but shall not have a vote. He shall receive notice of all special meetings of the City Council, and of all boards and commissions. He shall attend all meetings of the City Council, unless excused, except when his removal is under consideration.

Section 606. Removal. The City Administrator shall not be removed from office during or within a period of ninety days next succeeding any municipal election at which a member of the City Council is elected. At any other time the City Administrator may be removed only at a regular meeting of the City Council and upon the affirmative votes of a majority of the members of the City Council. At least thirty days prior to the effective date of his removal, the City Administrator shall be furnished with a written notice stating the Council's intention to remove him and, if requested by the City Administrator, the reasons therefor. Within seven days after receipt of such notice, the City Administrator may by written notification to the City Clerk request a public hearing before the City Council, in which event the Council shall fix a time for a public hearing which shall be held at its regular meeting place before the expiration of the thirty-day period above referred to. The City Administrator shall appear and be heard at such hearing. After furnishing the City Administrator with written notice of his intended removal, the City Council may suspend him from duty, but his compensation shall continue until his removal as herein provided. In removing the City Administrator, the City Council shall use its uncontrolled discretion, and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing, the purpose of which is to allow the City Council and the City Administrator to present to each other and to the public all pertinent facts prior to the final action of removal.

Section 607. Non-interference With Administrative Service. Except as otherwise provided in this Charter, no member of the City Council shall order, directly or indirectly, the appointment by the City Administrator, or by any of the department heads in the administrative service of the City, of any person to any office or employment, or his removal therefrom. Except for the purpose of inquiry, no member of the City Council shall deal with the administrative service under the jurisdiction of the City Administrator except through the City Administrator, and no member of the City Council shall give orders to any subordinate of the City Administrator, either publicly or privately.

Section 608. Acting City Administrator. The City Administrator shall appoint, subject to the approval of the City Council, one of the other officers or department heads of the City to serve as Acting City Administrator during any temporary absence or disability of the City Administrator. If he fails to make such appointment, the City Council may appoint an officer or department head to serve as such Acting City Administrator during any such absence or disability.

## Article VII Officers and Employees

Section 700. Enumeration. In addition to the City Council, a City Clerk, a City Treasurer, and City Administrator,

the officers and employees of the City shall consist of a City Attorney, a Director of Finance, a Director of Public Works, a Planning Director, a Police Chief, a Fire Chief, and such other officers, assistants, deputies and employees as the City Council may provide by ordinance or resolution.

Section 701. Appointment and Removal. All officers, department heads and employees of the City, except elective offices, shall be appointed and may be removed as elsewhere in this Charter provided.

Section 702. Administrative Departments. The City Council may provide by ordinance or resolution not inconsistent with this Charter for the organization, conduct and operation of the several offices and departments of the City as established by this Charter, for the creation of additional departments, divisions, offices and agencies and for their consolidation, alteration or abolition. It may further provide by ordinance or resolution for the assignment and reassignment of functions, duties, offices and agencies to offices and departments, and for the number, titles, qualifications, powers, duties, and compensation of all officers and employees, consistent with this Charter. Each department so created shall be headed by an officer as department head.

When the positions are not incompatible, the City Council may combine in one person the powers and duties of two or more officers, provided, however, that the same person shall not hold the positions of City Treasurer and Director of Finance.

Section 703. City Attorney. Powers and Duties. To become and remain eligible for City Attorney the person elected or appointed shall be an attorney at law, duly licensed as such under the laws of the State of California, and shall have been engaged in the practice of law in this State for at least three years prior to his election or appointment. The City Attorney shall have the power and may be required to:

(a) Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.

(b) Prosecute on behalf of the people any or all criminal cases arising from violation of the provisions of this Charter or of City ordinances and such state misdemeanors as the City has the power to prosecute, unless otherwise provided by the City Council.

(c) Represent and appear for the City in any or all actions or proceedings in which the City is concerned or is a party, and represent and appear for any City officer or employee, or former City officer or employee, in any or all civil actions or proceedings in which such officer or employee is concerned or is a party for any act arising out of his employment or by reason of his official capacity.

(d) Attend all regular meetings of the City Council, unless excused, and give his advice or opinion orally or in writing whenever requested to do so by the City Council or by any of the boards or officers of the City.

(e) Approve the form of all contracts made by and all bonds and insurance given to the City, endorsing his approval thereon in writing.

(f) Prepare any and all proposed ordinances and City Council resolutions and amendments thereto.

(g) Devote such time to the duties of his office and at such place as may be specified by the City Council.

(h) Perform such legal functions and duties incident to the execution of the foregoing powers as may be necessary.

(i) Surrender to his successor all books, papers, files and documents pertaining to the City's affairs.

The City Council shall have control of all legal business and proceedings and all property of the legal department, and may employ other attorneys to take charge of or may contract for any prosecutions, litigation or other legal matters or business.

Section 704. City Clerk. Powers and Duties. The City Clerk shall have the power and shall be required to:

(a) Attend all meetings of the City Council, unless excused, and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the City Council in books that shall bear appropriate title and be devoted to such purpose.

(b) Maintain separate books, in which shall be recorded respectively all ordinances and resolutions, with the certificate of the Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter.

(c) Maintain separate records of all written contracts and official bonds.

(d) Keep all books and records in his possession properly indexed and open to public inspection when not in actual use.

(e) Be the custodian of the seal of the City.

(f) Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City and certify copies of official records.

(g) Be ex-officio Assessor, unless the City Council has availed itself, or does in the future avail itself, of the provisions of the general laws of the State relative to the assessment of property and the collection of City taxes by county officers, or unless the City Council by ordinance provides otherwise.

(h) Have charge of all City elections.

(i) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

The City Clerk may, subject to the approval of the City Council, appoint such deputy or deputies to assist him or act for him, at such salaries or compensation as the Council may by ordinance or resolution prescribe.



Section 705. City Treasurer. Powers and Duties. The City Treasurer shall have the power and shall be required to:

(a) Receive on behalf of the City all taxes, assessments, license fees and other revenues of the City, or for the collection of which the City is responsible, and receive all taxes or other money receivable by the City from the County, State or Federal Government, or from any court, or from any office, department or agency of the City.

(b) Have and keep custody of all public funds belonging to or under control of the City or any office, department or agency of the City government and deposit or cause to be deposited all funds coming into his hands in such depository as may be designated by resolution of the City Council, or, if no such resolution be adopted, then in such depository designated in writing by the City Administrator, and in compliance with all of the provisions of the State Constitution and laws of the State governing the handling, depositing and securing of public funds.

(c) Pay out moneys only on proper orders or warrants in the manner provided for in this Charter.

(d) Prepare and submit to the Director of Finance monthly written reports of all receipts, disbursements and fund balances, and shall file copies of such reports with the City Administrator and City Council.

(e) Perform such other duties consistent with this Charter as may be required by ordinance or resolution of the City Council.

The City Treasurer may, subject to the approval of the City Council, appoint such deputy or deputies to assist him or act for him, at such salaries or compensation as the Council may by ordinance or resolution prescribe.

Section 706. Director of Finance. Powers and Duties. To be eligible for appointment as Director of Finance, the person appointed shall have had at least six years of responsible financial experience including at least four years in a public agency and shall have such other qualifications as may be required by the City Council. The Director of Finance shall have the power and shall be required to:

(a) Have charge of the administration of the financial affairs of the City under the direction of the City Administrator, and be head of the Finance Department of the City.

(b) Assist the City Administrator in the preparation and execution of the budget.

(c) Establish and maintain a system of financial procedures, accounts and controls for the City government and each of its offices, departments and agencies.

(d) Supervise and be responsible for the disbursement of all moneys and have control of all expenditures to insure that budget appropriations are not exceeded; audit all purchase orders before issuance; audit and approve before payment all bills, invoices, payrolls, demands or charges against the City

government; with the advice of the City Attorney, when necessary, determine the regularity, legality and correctness of such claims, demands or charges; and draw warrants upon the City Treasurer for all claims and demands audited and approved as in this Charter provided specifying the purpose for which drawn and the fund from which payment is to be made.

(e) Supervise and be responsible for the receipt and collection of all taxes, assessments, license fees and other revenues of the City, or for the collection of which the City is responsible, and all other money receivable by the City from the County, State or Federal Government, or from any court, office, department or agency of the City.

(f) Submit to the City Council through the City Administrator a monthly statement of all revenues and expenditures in sufficient detail to show the exact financial condition of the City; and, as of the end of each fiscal year, submit a complete financial statement and report.

(g) Supervise the keeping of current inventories of all property of the City by all City departments, offices and agencies.

(h) Perform such other duties consistent with this Charter as may be required of him.

Section 707. Director of Public Works. Planning Director. Police Chief. Fire Chief. The Director of Public Works, the Planning Director, the Police Chief and the Fire Chief shall be the heads of their respective departments, and these departments shall continue and remain separate departments.

Section 708. Administering Oaths. Each department head and his deputies shall have the power to administer oaths and affirmations in connection with any official business pertaining to his department.

Section 709. Illegal Contract. Financial Interest. No member of the City Council shall have a financial interest, directly or indirectly, in any contract, sale or transaction to which the City is a party and neither shall any officer or employee, or member of any board or commission, have an interest in any contract, sale or transaction to which the City is a party and which comes before said officer or employee, or member of any board or commission, or the department or office of the City with which he is connected, for official action.

Any such contract or transaction in which there shall be such an interest shall become void at the election of the City, when so declared by resolution of the City Council.

No member of the City Council, City official or employee, or member of any board or commission, shall be deemed to have a financial interest, within the meaning of the foregoing provisions, in any contract made with a corporation by reason of the ownership of stock in such corporation unless said stock owned by him shall amount to at least three per cent of all the stock of such corporation issued and outstanding. No City Councilman or member of any board or commission shall vote

on or participate in any contract or transaction in which he has directly or indirectly a financial interest whether as a stockholder of the corporation or otherwise. If any officer, or employee, or member of any board or commission, during the term for which he was elected or appointed, shall so vote or participate, or shall have a financial interest as aforesaid, upon conviction thereof, he shall forfeit his office.

Section 710. Acceptance of Other Office. Any elective officer of the City who shall accept or retain any other elective public office, except as provided in this Charter, shall be deemed thereby to have vacated his office under the City government.

Section 711. Nepotism. The City Council shall not appoint to a salaried position under the City government any person who is a relative by blood or marriage within the third degree of any one or more of the members of such City Council, nor shall the City Administrator or any department head or other officer having appointive power appoint any relative of his or of any Councilman within such degree to any such position.

Section 712. Official Bonds. The City Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officials or employees who are required by this Charter or by ordinance to give such bonds. All bonds shall be executed by responsible corporate surety, shall be approved as to form by the City Attorney, and shall be filed with the City Clerk. Premiums on official bonds shall be paid by the City. A blanket bond may be used if it provides the same protection as the required separate bonds would provide.

In all cases wherein an employee of the City is required to furnish a faithful performance bond, there shall be no personal liability upon, or any right to recover against, his superior officer or other officer or employee, or the bond of the latter, unless such superior officer, or other officer or employee is a party to the act or omission, or has conspired in the wrongful act directly or indirectly causing the loss.

### Article VIII Appointive Boards and Commission

Section 800. In General. There shall be the following named advisory boards and commissions which shall have the powers and duties herein stated. In addition, the City Council may create by ordinance such additional advisory boards or commissions as in its judgment are required, and may specify the number of members thereof, their terms and manner of appointment, and may grant to them such powers and duties as are consistent with the provisions of this Charter.

Section 801. Appropriations. The City Council shall include in its annual budget such appropriations of funds as in its opinion shall be sufficient for the efficient and proper functioning of such boards and commissions.

Section 802. **Appointments. Terms.** The members of each of the boards or commissions hereinafter named in this Article shall be appointed by the City Council from the registered voters of the City, none of whom shall hold any full time paid office or employment in the City government. They shall be subject to removal by motion of the City Council adopted by the affirmative votes of a majority of the total membership thereof. The members thereof shall serve for terms of four years and until their respective successors are appointed and qualified. The terms shall be staggered so that the number of terms on any such board or commission expiring in any year shall not differ by more than one from the number of terms expiring in any other year. Such terms shall expire on June Thirtieth of the appropriate year. A vacancy occurring before the expiration of a term shall be filled by appointment for the remainder of the unexpired term.

Section 803. **Existing Boards.** The members of the boards and commissions holding office when this Charter takes effect shall continue to hold office thereafter until their respective terms of office shall expire and until their successors shall be appointed and qualified. If the membership of any board or commission is reduced or increased by this Charter, the members to be added or eliminated shall be determined by the City Council. The terms of the members of any existing board or commission shall be adjusted, if necessary, to comply with the provisions of this Charter.

Section 804. **Meetings. Chairman.** As soon as practicable, following the first day of July of every year, each of such boards and commissions shall organize by electing one of its members to serve as presiding officer at the pleasure of the board or commission. All meetings of said boards and commissions shall be open to the public and all persons shall be permitted to attend such meetings, except that the provisions of this sentence shall not apply to executive sessions to consider the appointment, employment, discipline or dismissal of a public officer or employee or to hear complaints or charges against any such officer or employee.

The City Administrator shall designate a secretary for each of such boards and commissions who need not be a member of such board and commission, and who shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own rules and regulations, which shall be consistent with this Charter and shall be subject to the approval of the City Council. Copies of such rules shall be kept on file in the office of the City Clerk where they shall be available for public inspection.

Section 805. **Oaths. Affirmations.** Each member of any such board or commission, and the secretary thereof, shall have the power to administer oaths and affirmations in any investigation or proceeding pending before such board or commission.

Section 806. Planning Commission. Powers and Duties. There shall be a Planning Commission consisting of seven members who shall have been residents of the City for at least two years immediately preceding their appointment. The City Attorney and Director of Public Works, or their assistants, shall attend all meetings of the Planning Commission unless excused therefrom. The Planning Commission shall have the power and be required to:

(a) Recommend to the City Council after a public hearing thereon, the adoption, amendment or repeal of a Master or General Plan, or any part thereof, for guidance in the physical development of the City.

(b) Exercise such functions with respect to land subdivisions as shall be provided by ordinance not inconsistent with the provisions of this Charter.

(c) Exercise such functions with respect to zoning, building, land use, precise plans, specific plans, and related matters as may be prescribed by ordinance not inconsistent with the provisions of this Charter.

(d) Perform such other functions not inconsistent with this Charter as may be delegated to it by the City Council.

Section 807. Library Board. Powers and Duties. There shall be a Library Board consisting of five members which shall have the power and duty to:

(a) Make recommendations to the City Council for the operation and conduct of City libraries.

(b) Recommend to the City Council rules and regulations and by-laws for the administration and protection of City libraries.

(c) Recommend to the City Council the duties and qualifications of the librarian and other officers and employees of the libraries.

(d) Make recommendations concerning the acquisition of books, journals, reports, maps, publications and other personal property.

(e) Make recommendations concerning the purchase or lease of real property and the rental or provision for adequate facilities, buildings or rooms for library purposes.

(f) Make recommendations concerning the borrowing of library materials from and lending library materials to and exchanging library materials with other libraries subject to any costs and expenses approved by the City Council.

(g) Consider the annual budget for library purposes during the process of its preparation and make recommendations with respect thereto to the City Council and the City Administrator.

(h) Within sixty days after the close of each fiscal year, report to the City Council on the condition of the libraries for the preceding fiscal year and on such other matters deemed expedient by the Library Board.

(i) Exercise such other functions not inconsistent with this Charter as may be prescribed by ordinance.

Section 808. Personnel Board. Powers and Duties. There shall be a Personnel Board consisting of five members, none of the members of which while a member of said board or for a period of one year after he has ceased for any reason to be a member, shall occupy or be eligible for appointment to any salaried office or employment in the service of the City. The Personnel Board shall have the power and be required to:

(a) Act in an advisory capacity to the City Council and City Administrator on personnel administration.

(b) After a public hearing thereon, recommend to the City Council, the adoption, amendment or repeal of personnel rules and regulations.

(c) Make any investigation upon request of the City Council concerning the administration of personnel in the municipal service and report its findings to the City Council and City Administrator.

(d) Hear appeals of any officer or employee under the Personnel System who is suspended for a period of more than thirty days, demoted or removed, and report in writing to the appointing power and City Council, its findings, conclusions and recommendations.

(e) Exercise such functions with respect to personnel or the Personnel System, not inconsistent herewith, as may be prescribed by ordinance or requested by the City Council.

#### Article IX Board of Education

Section 900. State Law Governs. The manner in which, the times at which, and the terms for which the members of the Board of Education shall be elected or appointed, their qualifications, compensation and removal and the number which shall constitute such board shall be as now or hereafter prescribed by the Education Code of the State of California, provided that the number of members which shall constitute such board shall be five unless and until said number shall be changed by or pursuant to the terms of said Education Code.

Section 901. Effect of Charter on District. The adoption of this Charter shall not have the effect of creating any new school district nor shall the adoption of this Charter have any effect upon the existence or boundaries of any present school district within the City or of which the City comprises a part. but each such present school district shall continue in existence subject to the provisions of the laws of the State of California as the same now exist or hereafter may exist.

Section 902. Effect of Charter on Board. The five members of the Board of Education in office on the effective date of this Charter shall continue as such until the expiration of their terms and until the election and qualification of their respective successors under said Education Code; and if neces-

sary, the Board of Education shall adjust the term of one or more of its members by not more than one year so that hereafter the terms of the members of said Board shall comply with said Education Code.

#### Article X Personnel System

Section 1000. System to be Established. The City Council shall, within six months of the effective date of this charter, by ordinance establish a comprehensive personnel system for the selection, employment, classification, advancement, demotion, suspension, discharge and handling of grievances of those appointive officers and employees who shall be included in the system. The system shall consist of the establishment of minimum standards of employment and qualifications for the various classes of employment and procedures to be followed in advancement, demotion, suspension and discharge of employees included within the system, as the City Council shall determine to be for the best interests of the public service. The ordinance shall designate the departments and the appointive officers and employees who shall be included within the system. By subsequent ordinances the City Council may amend the system or the list of departments and appointive officers and employees included within the system, provided, however, that once included within the system, no department, officer or employee shall be withdrawn therefrom (unless the department, office or position is actually abolished or eliminated) without the approval of such withdrawal at a regular or special election by a majority of the voters voting on such proposition. The system shall comply with all other provisions of this Charter.

#### Article XI Retirement

Section 1100. State System. Authority and power are hereby vested in the City, its City Council and its several officers, agents, and employees to do and perform any act, and to exercise any authority granted, permitted, or required under the provisions of the State Employees' Retirement Act, as it now exists or hereafter may be amended, to enable the City to continue as a contracting City under the State Employees' Retirement System. The City Council may terminate any contract with the Board of Administration of the State Employees' Retirement System only under authority granted by ordinance adopted by a majority vote of the electors of the City voting on such proposition at an election at which such proposal is presented.

#### Article XII Fiscal Administration

Section 1200. Fiscal Year. The fiscal year of the City government shall begin on the first day of July of each year and end on the thirtieth day of June of the following year.

Section 1201. Annual Budget, Preparation by the City Administrator. At such date as the City Administrator shall determine, each board or commission and each department head shall furnish to the City Administrator, personally, or through the Director of Finance, estimates of revenue and expenditures for his department or for such board or commission for the ensuing fiscal year, detailed in such manner as may be prescribed by the City Administrator. In preparing the proposed budget, the City Administrator shall review the estimates, hold conferences thereon with the respective department heads, boards or commissions as necessary, and may revise the estimates as he may deem advisable.

Section 1202. Budget. Submission to City Council. At least thirty days prior to the beginning of each fiscal year, the City Administrator shall submit to the City Council the proposed budget as prepared by him. After reviewing same and making such revisions as it may deem advisable, the City Council shall determine the time for the holding of a public hearing thereon and shall cause to be published a notice thereof not less than ten days prior to said hearing, by at least one insertion in the official newspaper. Copies of the proposed budget shall be available for inspection by the public in the office of the City Clerk at least ten days prior to said hearing.

Section 1203. Budget. Public Hearing. At the time so advertised or at any time to which such public hearing shall from time to time be adjourned, the City Council shall hold a public hearing on the proposed budget, at which interested persons desiring to be heard shall be given such opportunity.

Section 1204. Budget. Further Consideration and Adoption. At the conclusion of the public hearing the City Council shall further consider the proposed budget and make any revisions thereof that it may deem advisable and on or before June 30 it shall adopt the budget with revisions, if any, by the affirmative votes of at least a majority of the total members of the Council. Upon final adoption, the budget shall be in effect for the ensuing fiscal year. Copies thereof, certified by the City Clerk, shall be filed with the City Administrator, Director of Finance, City Treasurer, and the person retained by the City Council to perform the post audit function, and a further copy shall be placed, and shall remain on file, in the office of the City Clerk where it shall be available for public inspection. The budget so certified shall be reproduced and copies made available for the use of the public and of departments, offices and agencies of the City.

Section 1205. Budget. Appropriations. From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several departments, offices and agencies for the respective objects and purposes therein named, provided, however, that the City Administrator may transfer funds from one object or purpose to another within the same department, office or agency. All appropriations shall lapse at the end of the fiscal



year to the extent that they shall not have been expended or lawfully encumbered.

At any public meeting after the adoption of the budget, the City Council may amend or supplement the budget by motion adopted by the affirmative votes of at least a majority of the total members of the City Council.

**Section 1206. Centralized Purchasing.** Under the control and direction of the City Administrator there shall be established a centralized purchasing system for all City departments and agencies, except as otherwise provided in this Charter. The City Administrator shall recommend and the City Council shall consider and adopt by ordinance, rules and regulations governing the contracting for, purchasing, storing, and distribution of all supplies, materials and equipment required by any office, department or agency of the City government.

**Section 1207. Tax Limits.**

(a) The City Council shall not levy a property tax for municipal purposes in excess of One Dollar annually on each One Hundred Dollars of the assessed value of taxable property in the City, except as otherwise provided in this Section, unless authorized by the affirmative votes of a majority of the electors voting on a proposition to increase such levy at any election at which the question of such additional levy for municipal purposes is submitted to the electors. The number of years that such additional levy is to be made shall be specified in such proposition.

(b) There shall be levied and collected at the same time and in the same manner as other property taxes for municipal purposes are levied and collected, as additional taxes not subject to the above limitation, if no other provision for payment thereof is made, :

1. A tax sufficient to meet all liabilities of the City of principal and interest of all bonds and judgments due and unpaid, or to become due during the ensuing fiscal year, which constitute general obligations of the City; and

2. A tax sufficient to meet all obligations of the City under the State Employees' Retirement System, the Federal Insurance Contributions Act, or other plan, for the retirement of City Employees, due and unpaid or to become due during the ensuing fiscal year.

(c) Special levies, in addition to the above and not subject to the above limitation, may be made annually, based on City Council approved estimates, for the following specific purposes, but not to exceed the following respective limits for those purposes for which limits are herein set forth, to wit: parks and recreation not to exceed \$0.20 per One Hundred Dollars; libraries not to exceed \$0.15 per One Hundred Dollars; advertising, music and promotion not to exceed \$0.05 per One Hundred Dollars; civil defense and disaster preparedness not to exceed \$0.03 per One Hundred Dollars; and for public museums of natural and historical objects not to exceed \$0.02 per One Hundred Dollars. The proceeds of any such

special levy shall be used for no other purpose than that specified.

Section 1208. Tax Procedure. The procedure for the assessment, levy and collection of taxes upon property, taxable for municipal purposes, shall be prescribed by ordinance of the City Council.

If the City Council fails to fix the rate and levy taxes on or before August 31 in any year, the rate for the next preceding fiscal year shall thereupon be automatically adopted and a tax at such rate shall be deemed to have been levied on all taxable property in the City for the current fiscal year.

Section 1209. Bonded Debt Limit. The City shall not incur an indebtedness evidenced by general obligation bonds which shall in the aggregate exceed the sum of fifteen percent of the total assessed valuation, for purposes of City taxation, of all the real and personal property within the City.

No bonded indebtedness which shall constitute a general obligation of the City may be created unless authorized by the affirmative votes of two-thirds of the electors voting on such proposition at any election at which the question is submitted to the electors and unless in full compliance with the provisions of the State Constitution and of this Charter.

Section 1210. Revenue Bonds. Bonds which are payable only out of such revenues, other than taxes, as may be specified in such bonds, may be issued when the City Council by ordinance shall have established a procedure for the issuance of such bonds. Such bonds, payable only out of revenues, shall not constitute an indebtedness or general obligation of the City. No such bonds payable out of revenues shall be issued without the assent of a majority of the voters voting upon the proposition for issuing the same at an election at which such proposition shall have been duly submitted to the registered voters of the City.

It shall be competent for the City to make contracts and covenants for the benefit of the holders of any such bonds payable only from revenues and which shall not constitute a general obligation of the City for the establishment of a fund or funds, for the maintaining of adequate rates or charges, for restrictions upon further indebtedness payable out of the same fund or revenues, for restrictions upon transfer out of such fund, and other appropriate covenants. Money placed in any such special fund for the payment of principal and/or interest on any issue of such bonds or to assure the application thereof to a specific purpose shall not be expended for any other purpose whatever except for the purpose for which such special funds was established and shall be deemed segregated from all other funds of the City and reserved exclusively for the purpose for which such special fund was established until the purpose of its establishment shall have been fully accomplished.

Section 1211. Contracts on Public Works. Except as hereinafter expressly provided, every contract involving an expenditure of more than Two Thousand Five Hundred Dollars (\$2,500.00) for the construction or improvement (excluding maintenance and repair) of public buildings, works, streets, drains, sewers, utilities, parks and playgrounds, and each separate purchase of materials or supplies for the same, where the expenditure required for such purchase shall exceed the sum of Two Thousand Five Hundred Dollars (\$2,500.00), shall be let to the lowest responsible bidder after notice by publication in the official newspaper by two or more insertions, the first of which shall be at least ten days before the time for opening bids.

The City Council may reject any and all bids presented and may readvertise in its discretion. After rejecting bids, or if no bids are received, or without advertising for bids if the total amount of the contract or project is less than Five Thousand Dollars (\$5,000.00), the City Council may declare and determine that in its opinion, the work in question may be performed better or more economically by the City with its own employees, or that the materials or supplies may be purchased at a lower price in the open market, and after the adoption of a resolution to this effect by the affirmative votes of a majority of the total members of the City Council, it may proceed to have said work done or such materials or supplies purchased in the manner stated without further observance of the provisions of this Section. Such contracts may be let and such purchases made without advertising for bids if such work or the purchase of such materials or supplies shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property, and shall be authorized by the affirmative votes of at least two-thirds of the total members of the City Council.

Projects for the extension, replacement or expansion of the transmission or distribution system of any existing public utility operated by the City or for the purchase of supplies or equipment for any such project or any such utility may be excepted from the requirements of this Section by the affirmative vote of a majority of the total members of the City Council.

Section 1212. Contingency Fund. The City Council may maintain a revolving fund, to be known as the "Contingency Fund", for the purpose of placing the payment of the running expenses of the City on a cash basis. A balance may be built up in this fund from any available sources, other than funds which are by law or this Charter restricted to a particular use, in an amount which the City Council deems sufficient with which to meet all lawful demands against the City for the first five months, or other necessary period, of the succeeding fiscal year prior to the receipt of sufficient revenues. Transfers may be made by the City Council from such fund to any

other fund or funds of such sum or sums as may be required for the purpose of placing such funds, as nearly as possible, on a cash basis. All money so transferred from the Contingency Fund shall be returned thereto before the end of the fiscal year.

Section 1213. Capital Outlays Fund. A fund for capital outlays generally is hereby created, to be known as the "Capital Outlays Fund" and to be a continuation of any existing Capital Outlays Fund. The City Council may create by ordinance a special fund or funds for a special capital outlay purpose. The City Council may levy and collect taxes for capital outlays and may include in the annual tax levy a levy for such purposes in which event it must apportion and appropriate to any such fund or funds the moneys derived from such levy. It may not, in making such levy, exceed the maximum tax rate provided for in this Charter, unless authorized by the affirmative votes of a majority of the electors voting on the proposition at any election at which such question is submitted. The City Council may transfer to any such fund any unencumbered surplus funds remaining on hand in the City at any time.

Once created, such fund shall remain inviolate for the purpose for which it was created; if for capital outlays generally, then for any such purposes, and if for a special capital outlay, then for such purpose only, unless the use of such fund for some other capital outlay purpose is authorized by the affirmative votes of a majority of the electors voting on such proposition at a general or special election at which such proposition is submitted.

If the purpose for which any special capital outlay fund has been created has been accomplished, the City Council may transfer any unexpended and unencumbered surplus remaining in such fund to the fund for capital outlays generally, established by this Charter.

Section 1214. Treasurer's Departmental Trust Fund. The City Council may prescribe by ordinance for the setting up of a Treasurer's Departmental Trust Fund into which the collections of or deposits with the police department, license collector, building official and other officers and departments authorized to make collections or receive deposits may be deposited at frequent intervals each month, with advice of each deposit being furnished to the City Treasurer and Director of Finance. The City Treasurer shall make withdrawals from such a fund only on order signed by the Director of Finance and for the following purposes:

(a) Making a refund of refundable deposits when such refund is legally due from the City.

(b) Revolving fund advances authorized by the City Council.

(c) Correction of clerical or ministerial errors in the receipt of payments to the City.

(d) Making settlements with City funds at the end of each calendar month for collections or deposits accumulated during the month.

Section 1215. Other Funds. The City Council may establish by ordinance such other funds, not inconsistent with the provisions of this Charter, as it may consider appropriate or desirable.

Section 1216. Claims and Demands. Presentation and Payment. Procedures prescribed by the State Legislature governing the presentation, consideration and enforcement of claims against chartered cities or against officers, agents and employes thereof shall apply to the presentation, consideration and enforcement of claims against the City.

In the absence of applicable procedures prescribed by the State Legislature, and to the extent that the same are not inconsistent therewith, the following provisions of this Section shall govern the presentation, processing and payment of all claims and demands against the City.

All claims for damages against the City must be presented in writing to the City Clerk within one hundred days after the occurrence, event or transaction from which the damages allegedly arose, and shall set forth in detail the name and address of the claimant, the time, date, place and circumstances of the occurrence and the extent of the injuries or damages sustained. All such claims shall be approved or rejected in writing by order of the City Council and the date thereof given.

All other demands against the City must be in writing and may be in the form of a bill, invoice, payroll, or formal demand. Each such demand shall be presented to the Director of Finance within one hundred days after the last item of the account or claim accrued. The Director of Finance shall examine the same. If the amount thereof is legally due and there remains on his books an unexhausted balance of an appropriation against which the same may be charged, he shall approve such demand and draw his warrant on the City Treasurer therefor, payable out of the proper fund. Otherwise he shall reject it. Objections of the Director of Finance may be overruled by the City Council and the warrant ordered drawn. The Director of Finance shall transmit such demand, with his approval or rejection thereof endorsed thereon, and warrant, if any, to the City Administrator. If a demand is one for an item included within an approved budget appropriation, it shall require the approval of the City Administrator before payment; otherwise it shall require the approval of the City Council, following the adoption by it of an amendment to the budget authorizing such payment. Any person dissatisfied with the refusal of the City Administrator to approve any demand, in whole or in part, may present the same to the City Council which, after examining into the matter, shall approve or reject the demand in whole or in part.

Section 1217. Actions Against City. No suit shall be brought for money or damages against the City or any board, commission or officer thereof on any cause of action for which this Charter or the general law requires a claim to be presented, until a claim or demand for the same has been presented as in this Charter provided and such claim and demand has been rejected in whole or in part. If rejected in part suit may be brought to recover the whole. Failure to complete action approving or rejecting any claim or demand within forty-five days from the day the same is presented shall be deemed a rejection thereof.

Section 1218. Registering Warrants. Warrants on the City Treasurer which are not paid for lack of funds shall be registered. All registered warrants shall be paid in the order of their registration when funds therefor are available and shall bear interest from the date of registration at such rate as shall be fixed by the City Council by resolution.

Section 1219. Independent Audit. The City Council shall employ at the beginning of each fiscal year, an independent certified public accountant who shall, at such time or times as may be specified by the City Council, at least annually, and at such other times as he shall determine, examine the books, records, inventories and reports of all officers and employees who receive, control, handle or disburse public funds and of all such other officers, employees or departments as the City Council may direct. As soon as practicable after the end of the fiscal year, a final audit and report shall be submitted by such accountant to the City Council, one copy thereof to be distributed to each member, one to the City Administrator, Director of Finance, Treasurer, and City Attorney, respectively, and sufficient additional copies of the audit shall be placed on file in the office of the City Clerk where they shall be available for inspection by the general public, and a copy of the financial statement as of the close of the fiscal year shall be published in the official newspaper.

Section 1220. Sale of Public Utility. No public utility now or hereafter owned or operated by the City shall be sold, leased or otherwise transferred or disposed of unless authorized by the affirmative votes of at least a majority of the total membership of the City Council and by the affirmative votes of at least two-thirds of the electors voting on such proposition at a general or special election at which such proposition is submitted.

### Article XIII Elections

Section 1300 General Municipal Elections. General municipal elections for the election of officers, except members of the Board of Education, and for such other purposes as the City Council may prescribe shall be held in the City on the second Tuesday in April in each even numbered year. The first such general municipal election shall be held on the second Tuesday in April, 1966.

Section 1301. Special Municipal Elections. All other municipal elections that may be held by authority of this Charter, or of any law, shall be known as special municipal elections.

Section 1302. Procedure for Holding Elections. All elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, for the holding of municipal elections, so far as the same are not in conflict with this Charter; provided, however, that in the case of the first election held under this Charter, the time for filing nomination papers and the time for publishing the notice of election is extended until the fortieth day prior to the election.

Section 1303. Initiative, Referendum and Recall. There are hereby reserved to the electors of the City the powers of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code of the State of California, as the same now exist or hereafter may be amended, governing the initiative and referendum and the recall of municipal officers, shall apply to the use thereof in the City so far as such provisions of the Elections Code are not in conflict with the provisions of this Charter.

#### Article XIV Franchises

Section 1400. Granting of Franchises. Any person, firm or corporation furnishing the City or its inhabitants with transportation, communication, terminal facilities, water, light, heat, electricity, gas, power, refrigeration, storage or any other public utility or service, or using the public streets, ways, alleys or places for the operation of plants, works or equipment for the furnishing thereof, or traversing any portion of the City for the transmitting or conveying of any such service elsewhere, may be required by ordinance to have a valid and existing franchise therefor. The City Council is empowered to grant such franchise to any person, firm or corporation, whether operating under an existing franchise or not, and to prescribe the terms and conditions of any such grant. It may also provide, by procedural ordinance, the method of procedure and additional terms and conditions of such grants, or the making thereof, all subject to the provisions of this Charter.

Nothing in this Section, or elsewhere in this Article, shall apply to the City, or to any department thereof, when furnishing any such utility or service.

Section 1401. Resolution of Intention. Notice and Public Hearing. Before granting any franchise, the City Council shall pass a resolution declaring its intention to grant the same, stating the name of the proposed grantee, the character of the franchise and the terms and conditions upon which it is proposed to be granted. Such resolution shall fix and set forth the day, hour and place when and where any persons having any interest therein or any objection to the granting thereof may

appear before the City Council and be heard thereon. It shall direct the City Clerk to publish said resolution at least once, within fifteen days of the passage thereof, in the official newspaper. The time fixed for such hearing shall not be less than twenty nor more than sixty days after the passage of said resolution.

At the time set for the hearing the City Council shall proceed to hear and pass upon all protests and its decision thereon shall be final and conclusive. Thereafter it may by ordinance grant the franchise on the terms and conditions specified in the resolution of intention to grant the same, subject to the right of referendum of the people, or it may deny the same. If the City Council shall determine that changes should be made in the terms and conditions upon which the franchise is proposed to be granted, a new resolution of intention shall be adopted and like proceedings had thereon.

Section 1402. Terms of Franchise. Every franchise shall state the term for which it is granted, which, unless it be indeterminate as provided for herein, shall not exceed forty years.

A franchise grant may be indeterminate, that is to say, it may provide that it shall endure in full force and effect until the same shall be voluntarily surrendered or abandoned by its possessor, or until the State of California, or some municipal or public corporation, thereunto duly authorized by law, shall purchase by voluntary agreement or shall condemn and take, under the power of eminent domain, all property actually used and useful in the exercise of such franchise and situate within the territorial limits of the State, municipal or public corporation purchasing or condemning such property, or until the franchise shall be forfeited for noncompliance with its terms by the possessor thereof.

Section 1403. Grant to be in Lieu of all Other Franchises. Any franchise granted by the City with respect to any given utility service shall be in lieu of all other franchises, rights or privileges owned by the grantee, or by any successor of the grantee to any right under such franchise, for the rendering of such utility service within the limits of the City as they now or may hereafter exist, except any franchise derived under Section 19 of Article XI of the Constitution of California as said section existed prior to the amendment thereof adopted October 10, 1911. The acceptance of any franchise hereunder, shall operate as an abandonment of all such franchises, rights and privileges within the limits of the City as such limits shall at any time exist, in lieu of which such franchise shall be granted.

Any franchise granted hereunder shall not become effective until written acceptance thereof shall have been filed by the grantee thereof with the City Clerk. Such acceptance shall be filed within ten days after the adoption of the ordinance granting the franchise, or any extension thereof granted by the City Council, and when so filed, such acceptance shall constitute a



continuing agreement of such grantee that if and when the City shall thereafter annex, or consolidate with, additional territory any and all franchises, rights and privileges owned by the grantee therein, except a franchise derived under said constitutional provision, shall likewise be deemed to be abandoned within the limits of such territory. No grant of any franchise may be transferred or assigned by the grantee except by consent in writing of the City Council and unless the transferee or assignees thereof shall covenant and agree to perform and be bound by each and all of the terms and conditions imposed in the grant or by procedural ordinance and by this Charter.

Section 1404. Eminent Domain. No franchise grant shall in any way, or to any extent, impair or affect the right of the City to acquire the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing herein contained shall be construed to contract away or to modify or to abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to any public utility.

Section 1405. Duties of Grantees. By its acceptance of any franchise hereunder, the grantee shall covenant and agree to perform and be bound by each and all of the terms and conditions imposed in the grant, or by procedural ordinance and shall further agree to:

(a) Comply with all lawful ordinances, rules and regulations theretofore or thereafter adopted by the City Council in the exercise of its police power governing the construction, maintenance and operation of its plants, works or equipment.

(b) Pay to the City on demand the cost of all repairs to public property made necessary by any of the operations of the grantee under such franchise.

(c) Indemnify and hold harmless the City and its officers and employees from any and all liability for damages proximately resulting from any operations under such franchise and provide such insurance and/or bond as the City Council may require.

(d) Remove and relocate without expense to the City any facilities installed, used and maintained under the franchise if and when made necessary by any lawful change of grade, alignment or width of any public street, way, alley or place, including the construction of any subway or elevated transit facilities, or by the construction or improvement of any public property or facility, or if the public health, comfort, welfare, convenience, or safety so demands.

(e) Pay to the City during the life of the franchise a percentage, to be specified in the grant, of the gross annual receipts of the grantee within the limits of the City, or such other compensation as the City Council may prescribe in the grant.

Section 1406. Exercising Rights Without Franchise. The exercise by any person, firm or corporation of any privilege for which a franchise is required, without possessing a valid

and existing franchise therefor, shall be a misdemeanor and shall be punishable in the same manner as violations of this Charter are punishable and each day that such condition continues to exist shall constitute a separate violation.

#### Article XV Miscellaneous

Section 1500. Definitions. Unless the provisions or the context otherwise requires, as used in this Charter:

(a) "Shall" is mandatory, and "may" is permissive.

(b) "City" is the City of Huntington Beach and "department", "board", "commission", "agency", "officer", or "employee", is a department, board, commission, agency, officer or employee, as the case may be, of the City of Huntington Beach.

(c) "County" is the County of Orange.

(d) "State" is the State of California.

(e) The masculine includes the feminine and the feminine includes the masculine.

(f) The singular includes the plural and the plural the singular.

(g) "Person" includes firm and corporation.

Section 1501. Violations. The violation of any provision of this Charter shall be a misdemeanor and shall be punishable upon conviction by a fine of not exceeding Five Hundred Dollars or by imprisonment for a term of not exceeding six months or by both such fine and imprisonment, and each day that any such violation continues shall constitute a separate violation.

Section 1502. Validity. If any provision of this Charter or the application thereof to any person or circumstance is held invalid, the remainder of the Charter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

In witness whereof, we have hereunto set our hands and hereto affixed the seal of said City of Huntington Beach this 21st day of January, 1966.

(SEAL)

DONALD D. SHIPLEY  
Mayor of the City of  
Huntington Beach

PAUL C. JONES  
City Clerk of the City of  
Huntington Beach

and

WHEREAS, The proposed charter, as adopted and ratified as hereinabove set forth, has been and now is duly submitted to the Legislature of the State of California for approval or rejection, as a whole without power of alteration or amendment, in accordance with Section 8 of Article XI of the Constitution of the State of California; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring, a majority of all the members elected to each house voting therefor and concurring therein, That the Charter of the City of Huntington Beach, as proposed to, and adopted and ratified by, the electors of the city, as hereinbefore fully set forth, is hereby approved as a whole, without alteration or amendment, as the Charter of the City of Huntington Beach.*

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#### CHAPTER 4

*Assembly Concurrent Resolution No. 8—Relative to the adjournment of the Legislature for the constitutional recess and to the reassembling of the Legislature after said recess, and fixing the dates for such adjournment and said reassembling.*

[Filed with Secretary of State February 15, 1966.]

*Resolved by the Assembly of the State of California, the Senate thereof concurring, That the 1966 Regular Session of the Legislature of the State of California shall adjourn for the recess authorized by Section 2 of Article IV of the Constitution at 12 o'clock noon on February 10, 1966, and shall reassemble at 12 o'clock noon on March 10, 1966.*

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#### CHAPTER 5

*Senate Concurrent Resolution No. 4—Relative to commending the Copley Press.*

[Filed with Secretary of State April 1, 1966 ]

WHEREAS, The Copley Press now publishes 15 daily newspapers in California and Illinois; and

WHEREAS, The Copley Press in California has long exemplified the finest in journalistic endeavor and has consistently played a major role in the community affairs of every city in which it publishes one or more newspapers; and

WHEREAS, The acquisition of *The Sacramento Union*, Sacramento's pioneer newspaper and the oldest daily west of the Rockies, is another example of the keen awareness of the Copley Press; and

WHEREAS, The Copley Press has seen fit to appoint Carlyle Reed, one of California's premier newspapermen, as Publisher of *The Sacramento Union*; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members take pride in commending the Copley Press for excellence in the realm of journalistic endeavor, and congratulate it on the occasion of its acquisition of *The Sacramento Union*; and be it further*

*Resolved*, That the Secretary of the Senate is hereby directed to transmit a suitably prepared copy of this resolution to the Copley Press and to James Copley, Chairman.

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## CHAPTER 6

*Assembly Concurrent Resolution No. 4—Relative to a study of the northern San Diego-southern Orange Counties area in connection with the need for establishment of additional centers of higher education.*

[Filed with Secretary of State April 4, 1966.]

WHEREAS, The tremendous population growth which has occurred in California in recent years and which will continue for decades to come, confronts the structure of public higher education in California with projected future enrollments at educational institutions of collegiate grade of such magnitude that continued planning for expansion of such facilities is necessary to serve the public interest; and

WHEREAS, The phenomenal growth of the northern San Diego-southern Orange Counties area requires that a coordinated plan for expansion of the California State Colleges must properly consider the need for a campus of the state college system in such area; and

WHEREAS, The population growth of the San Diego-Orange Counties area and vicinity is occurring and evidence indicates that it will continue to grow at a very rapid rate thereby greatly taxing existing facilities of public higher education; and

WHEREAS, Such a study should properly be made by the Coordinating Council for Higher Education in cooperation with the Trustees of the California State Colleges; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring*, That the Coordinating Council for Higher Education is requested to include in its next regularly scheduled study on the need for additional centers of higher education, the need and feasibility for the establishment of a state college in the northern San Diego-southern Orange Counties area; and, be it further

*Resolved*, That the Coordinating Council for Higher Education be directed to report thereon to the Legislature on or before the fifth calendar day of the 1970 Regular Session, including in the report its findings and recommendations; and, be it further

*Resolved*, That the Chief Clerk of the Assembly is directed to transmit copies of this resolution to the Coordinating Council for Higher Education and to the Trustees of the California State Colleges.

## CHAPTER 7

*Assembly Concurrent Resolution No. 6—Relative to the selection of the Legislative Counsel of California.*

[Filed with Secretary of State April 4, 1966.]

*Resolved by the Assembly of the State of California, the Senate thereof concurring, That pursuant to Section 10201 of the Government Code, George H. Murphy is selected Legislative Counsel of California.*

## CHAPTER 8

*Assembly Concurrent Resolution No. 7—Relative to printing maps of assembly, senate, and congressional districts.*

[Filed with Secretary of State April 4, 1966.]

*Resolved by the Assembly of the State of California, the Senate thereof concurring, That there shall be drafted by the Assembly Committee on Elections and Reapportionment, maps showing the boundaries of assembly districts, senate districts, and congressional districts, both on a statewide basis and for individual districts; the assembly districts and senate districts to be those formed by the Legislature at its 1965 Second Extraordinary Session; and be it further*

*Resolved, That the Chief Clerk of the Assembly shall cause to be printed, as a charge against the appropriation for legislative printing, such number of maps prepared pursuant to this resolution as shall be determined by the Joint Committee on Legislative Organization for distribution as directed by said committee.*

## CHAPTER 9

*Senate Concurrent Resolution No. 3—Relative to the California Law Revision Commission.*

[Filed with Secretary of State April 7, 1966.]

WHEREAS, Section 10335 of the Government Code provides that the California Law Revision Commission shall file a report at each regular session of the Legislature which shall contain a calendar of topics selected by it for study, including a list of the studies in progress; and

WHEREAS, The commission in its 1966 Annual Report lists the following studies, all of which the Legislature has previously authorized or directed the commission to study, as studies in progress:

Studies under active consideration:

(1) Whether an award of damages made to a married person in a personal injury action should be the separate property of such married person;

(2) Whether the law relating to additur and remittitur should be revised;

(3) Whether the law and procedure relating to condemnation should be revised with a view to recommending a comprehensive statute that will safeguard the rights of all parties to such proceedings;

(4) Whether the doctrine of sovereign or governmental immunity in California should be abolished or revised;

(5) Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised, including but not limited to the liability for inverse condemnation resulting from flood control projects;

(6) Whether Vehicle Code Section 17150 and related statutes should be revised;

(7) Whether the law relating to the rights and duties attendant upon termination or abandonment of a lease should be revised;

(8) Whether the Evidence Code should be revised;

(9) Whether the law relating to the rights of a good faith improver of property belonging to another should be revised;

(10) Whether the law relating to the use of fictitious names should be revised.

(11) Whether a former wife, divorced in an action in which the court did not have personal jurisdiction over both parties, should be permitted to maintain an action for support;

Other studies in progress:

(12) Whether the law relating to devises and bequests to a trustee under, or in accordance with, terms of an existing inter vivos trust should be revised and whether the law relating to a power of appointment should be revised;

(13) Whether the jury should be authorized to take a written copy of the court's instructions into the jury room in civil as well as criminal cases;

(14) Whether the law relating to escheat of personal property should be revised;

(15) Whether the law relating to the rights of a putative spouse should be revised;

(16) Whether the law respecting jurisdiction of courts in proceedings affecting the custody of children should be revised;

(17) Whether the law relating to attachment, garnishment, and property exempt from execution should be revised;

(18) Whether the Small Claims Court Law should be revised;

(19) Whether the law relating to the doctrine of mutuality of remedy in suits for specific performance should be revised;

(20) Whether Civil Code Section 1698 should be repealed or revised;

(21) Whether Section 7031 of the Business and Professions Code, which precludes an unlicensed contractor from bringing an action to recover for work done, should be revised;

(22) Whether California statutes relating to service of process by publication should be revised in light of recent decisions of the United States Supreme Court;

(23) Whether Section 1974 of the Code of Civil Procedure should be repealed or revised;

(24) Whether the various sections of the Code of Civil Procedure relating to partition should be revised and whether the provisions of the Code of Civil Procedure relating to the confirmation of partition sales and the provisions of the Probate Code relating to the confirmation of sales of real property of estates of deceased persons should be made uniform and, if not, whether there is need for clarification as to which of them governs confirmation of private judicial partition sales; and

WHEREAS, The commission in its 1966 Annual Report has recommended that the following topics, previously approved for study, be removed from its agenda in order to avoid duplicating the work of the Joint Legislative Committee for the Revision of the Penal Code:

(1) Whether the law respecting habeas corpus proceedings, in the trial and appellate courts, should, for the purpose of simplification of procedure to the end of more expeditious and final determination of the legal questions presented, be revised;

(2) Whether the laws relating to bail should be revised;

(3) Whether the law respecting postconviction sanity hearings should be revised;

(4) Whether the separate trial on the issue of insanity in criminal cases should be abolished or whether, if it is retained, evidence of the defendant's mental condition should be admissible on the issue of specific intent in the trial on the other pleas;

(5) Whether the provisions of the Penal Code relating to arson should be revised; and

WHEREAS, The commission in its 1966 Annual Report has recommended that the following topic, previously approved for study, be removed from its agenda because no legislation is necessary:

Whether the doctrine of election of remedies should be abolished in cases where relief is sought against different defendants; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature approves the topics listed above as studies in progress for continued study by the California Law Revision Commission and approves the removal from the commission's agenda of the studies listed above that the commission has recommended be removed from its agenda; and be it further

*Resolved,* That the commission is authorized to study the following additional topics:

(1) Whether the law relating to suit by and against partnerships and other unincorporated associations should be revised and whether the law relating to the liability of such associations and their members should be revised.

(2) Whether the law relating to quasi-community property and property described in Section 201.5 of the Probate Code should be revised.

(3) Whether the law relating to the allocation or division of property on divorce or separate maintenance should be revised.